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89th Session 2001

Report IV (2A)

Safety and health in agriculture

International Labour Office Geneva

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LIST OF RECURRING ABBREVIATIONS

Argentina	UATRE	Argentinian Union of Rural Workers and Stevedores
Barbados	BEC	Barbados Employers' Confederation
Belgium	CNT	National Labour Council
Brazil	CNA	National Confederation of Agriculture
	CONTAG	National Confederation of Agricultural Workers
China	ACFTU	All-China Federation of Trade Unions
Denmark	SiD	General Workers' Union in Denmark
	SALA	Confederation of Employers' Associations in Agriculture
Finland	KT	Commission for Local Authority Employers
	TT	Confederation of Finnish Industry and Employers
	FAE	Federation of Agricultural Employers
	MTK	Central Union of Agricultural Producers and Forest Owners
	SAK	Central Organization of Finnish Trade Unions
Indonesia	APINDO	Indonesian Employers' Association
Japan	NIKKEIREN	Japan Federation of Employers' Associations
Lesotho	ALE	Association of Lesotho Employers
Mauritius	MEF	Mauritius Employers' Federation
Niger	SYNTAC	National Union of Workers for Cooperative Action
Norway	NHO	Confederation of Norwegian Business and Industry
	LO	Confederation of Trade Unions
Poland	OPZZ	All-Poland Trade Union Alliance
Portugal	CAP	Confederation of Farmers of Portugal
	UGT	General Union of Workers

South Africa	BSA	Business South Africa
Sri Lanka	LJEWU	Lanka Jathika Estate Workers' Union
Switzerland	UPS	Confederation of Swiss Employers
	USP	Swiss Farmers' Union
	SiB	Industry and Construction Trade Union
United States	USCIB	United States Council for International Business

INTRODUCTION

The first discussion of the safety and health in agriculture Convention and Recommendation took place at the 88th Session (2000) of the International Labour Conference. Following that discussion, and in accordance with article 39 of the Standing Orders of the Conference, the International Labour Office prepared and communicated to the governments of member States Report IV (1) containing a proposed Convention and a proposed Recommendation, based on the conclusions adopted by the Conference at its 88th Session.

Governments were invited to send any amendments or comments they might wish to make so as to reach the Office by 30 November 2000 at the latest, or to inform it, by the same date, whether they considered that the proposed texts constituted a satisfactory basis for discussion by the Conference at its 89th Session (2001).

At the time of drawing up this report, the Office had received replies from the governments of the following 50 member States: Argentina, Australia, Austria, Azerbaijan, Barbados, Belgium, Benin, Brazil, Bulgaria, Cambodia, Chile, China, Croatia, Cuba, Cyprus, Denmark, Ecuador, Egypt, Eritrea, Estonia, Ethiopia, Finland, France, Germany, Greece, Hungary, Israel, Japan, Kuwait, Lebanon, Lithuania, Mauritius, Mexico, Morocco, Myanmar, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Ukraine, United Arab Emirates, United Kingdom.

In accordance with article 39, paragraph 6, of the Standing Orders of the Conference, governments were requested to consult the most representative organizations of employers and workers before finalizing their replies and to indicate which organizations were consulted.

The governments of the following 23 member States stated that the most representative organizations of employers and workers had been consulted: Azerbaijan, Barbados, Benin, Brazil, China, Cyprus, Denmark, Ecuador, Eritrea, Estonia, Finland, Germany, Hungary, Lithuania, Mauritius, Mexico, Myanmar, Norway, Portugal, Slovakia, Slovenia, Spain, Sweden.

In the case of the following 13 member States, the replies of employers' or workers' organizations were appended to those of the government, or were communicated directly to the Office: Argentina, Barbados, Belgium, Indonesia, Japan, Lesotho, Mauritius, Niger, Poland, South Africa, Sri Lanka, Switzerland, United States.

To ensure that the English and French texts of the proposed Convention and proposed Recommendation concerning safety and health in agriculture are in the hands of the governments within the time limit laid down in article 39, paragraph 7, of the Standing Orders of the Conference, these texts have been published in a separate volume, Report IV (2B), that has been sent to them. The present volume, Report IV (2A), which has been drawn up on the basis of the replies from governments and from employers' and workers' organizations, contains the essential points of their observations. It is divided into three sections: the first comprises their general observations on

the proposed texts, while the second and third sections contain their observations on the proposed Convention and proposed Recommendation, with the Office commentaries on these observations.

REPLIES RECEIVED AND COMMENTARIES

The substance of the replies received on the proposed Convention and the proposed Recommendation concerning safety and health in agriculture is given below. The replies are followed, where appropriate, by brief Office commentaries.

The governments of the following member States stated that they had no observations to put forward at the moment and considered that the proposed texts constituted a satisfactory basis for discussion at the 89th Session of the International Labour Conference: Azerbaijan, Bulgaria, Cambodia, China, Croatia, Cuba, Ecuador, Hungary, Lithuania, Myanmar, Poland, Romania, Slovenia, Syrian Arab Republic, United Arab Emirates.

However, most of the countries which considered the texts to be a satisfactory basis for discussion also commented on the texts and replied to the questions raised in the Office commentary in Report IV (1).

General observations

The Office has gathered together in this first section observations which relate to the proposed instruments as a whole and those which do not relate specifically to any particular provision, together with those which refer to general provisions.

ARGENTINA

Argentinian Union of Rural Workers and Stevedores (UATRE). The Union strongly supports the adoption of the proposed Convention and Recommendation as drafted by the Office following the first discussion in June 2000.

AUSTRALIA

The Government notes that the proposed Convention focuses exclusively on agriculture and duplicates many requirements already specified in the Occupational Safety and Health Convention, 1981 (No. 155). Similar comments could also be made concerning other Conventions. The existence of provisions in different instruments covering the same matters can present serious difficulties for member States in ensuring compliance with ratified Conventions. It is also noted that the text of the proposed Convention is too prescriptive. Conventions should be confined to broad principles focused on their goals, and should also be flexible enough to accommodate different national situations and levels of social and economic development. The mechanisms for applying them should be left to national law and practice as far as is practicable. In view of these concerns, the Government will continue to support the postponement of standard-setting action on safety and health in agriculture until an appropriate framework for the review of the ILO's labour standards has been established. Such a frame-

work should embody an approach which addresses the situation and special needs of particular sectors, such as agriculture.

AUSTRIA

The Government agrees with the proposed texts. An international Convention on safety and health in agriculture is emphatically welcome, since agriculture is one of the most hazardous sectors for workers worldwide, as is clear from the statistics on occupational injuries and diseases. Such an instrument would send out a clear signal regarding the need to improve working conditions, especially in the developing countries, where a majority of the population work in agriculture. It is worth noting that European Union provisions relating to occupational safety and health (in particular, framework Directive 89/391/EEC and the individual directives issued under it), which in principle also apply to agriculture, are more specific and comprehensive (if one considers the detailed technical annexes of the individual directives) than the proposed instruments. As a general remark, the aims set forth in the proposed Recommendation are very detailed and in part extremely ambitious. It is precisely in a Recommendation, because of its non-binding nature, that ambitious and forward-looking goals should be set.

BELGIUM

In the French texts of the instruments, the expression "assurer que" frequently means "ensure that", for example in Article 7(b) or the first sentence in Article 12, but the French term can also be understood to mean "to claim" or "maintain". Consequently, it would be better to replace "assurer que" with a more precise term.

DENMARK

The Danish Government does not find that there are any problems concerning the balance between general and specific provisions in the proposed instruments.

General Workers' Union in Denmark (SiD). The SiD supports the proposed Convention as a whole, but finds that it lacks a general provision stating that the text also covers self-employed persons and their households.

Confederation of Employers' Associations in Agriculture (SALA). Efforts should be made to draw up a flexible, ratifiable Convention supplemented by a Recommendation, taking into account the fact that agriculture, its hazards and national environmental legislation vary greatly from country to country. This requires a general wording which can be adapted in different countries and which will be relevant over a period of time, regardless of rapid technological developments. The proposed Convention is very detailed in certain points. This will probably result in a large number of countries being unable to ratify it. Furthermore, there should be overlapping with existing Conventions only where this arises from provisions that adapt existing Conventions to the special conditions applicable to agriculture.

ETHIOPIA

The inclusion of self-employed farmers in the Convention is important. As regards the implementation of the Convention, account should be taken of the difficul-

ties faced by inspection services in covering the sector in developing countries, such as Ethiopia.

FINLAND

The Convention is of special importance to workers engaged by another employer. Flexibility and the consideration of different needs are required.

Central Organization of Finnish Trade Unions (SAK). SAK approves the proposed Convention and Recommendation and does not consider it necessary to transfer provisions from the Convention to the Recommendation or vice versa.

GERMANY

The Government welcomes the fact that, following approval of a Convention concerning safety and health in mines, the International Labour Office has now set in motion a process to bring about improvements in safety and health in agriculture. It supports the adoption of a Convention and a Recommendation on this subject.

INDONESIA

Indonesian Employers' Association (APINDO). The Association does not agree with the adoption of this Convention. This should be postponed until 2005 to enable most agricultural countries and non-governmental organizations concerned to prepare and be ready to implement programmes to improve the ability of workers in agricultural enterprises to cope with the new Convention.

JAPAN

It may be useful to have international standards concerning safety and health of agricultural workers, as long as they are acceptable to member States. The actual conditions of agricultural workers vary considerably from one country to another. In view of such differences, the provisions of the Convention should cover fundamental issues that are applicable to a majority of countries, and the detailed implementation of the Convention should be left to the member States concerned. However, in preparing the proposed text, it may be necessary to bear in mind the particular characteristics of agriculture in order to guarantee its wider application. The Government believes that the definition of self-employed farmers should be included in the proposed Convention. It is important that the contents of the standard are made as clear as possible so that member States can have a clear and common understanding. Since a detailed definition is expected to differ from one country to another, the phrase "determined by national laws and regulations or the competent authority" should be included in the definition.

Japan Federation of Employers' Associations (NIKKEIREN). The type of work done by agricultural workers, the situations where industrial accidents and occupational diseases occur, and safety and health measures in agriculture vary to a large extent from country to country. NIKKEIREN would have preferred the international instrument on safety and health in agriculture to take the form of a Recommendation. However, as it was agreed at the first discussion in June 2000 that the instruments

should take the form of a Convention supplemented by a Recommendation, the Convention should be made flexible and ratifiable and should be able to respond to the circumstances of each country. Since employees in the agricultural sector and self-employed farmers are covered by different laws and regulations, the latter should not be covered by the instrument.

LESOTHO

Association of Lesotho Employers (ALE). These texts need to be flexible to encourage and facilitate ratification by as many member States as possible.

MAURITIUS

The texts of the proposed Convention and Recommendation constitute a satisfactory basis for a second discussion by the International Labour Conference at its 89th Session in June 2001.

Mauritius Employers' Federation (MEF). The Federation considers these texts to be more rigid than existing instruments and very difficult to ratify in their present form. Many practical problems will be encountered in the implementation of the proposed instruments.

MEXICO

Reference should be made to women workers whenever the word "worker" is mentioned, both in the proposed Convention and Recommendation.

NORWAY

The Government is of the view that the texts of the proposed Convention and Recommendation are very wide-ranging and many countries will find it difficult to attain the standards laid down in them. It will therefore not ratify this Convention, and it has to be asked whether a Convention of such scope and detail is suited to its purpose.

Confederation of Trade Unions in Norway (LO). The Convention should contain high-level standards regarding the agricultural working environment. The instrument should be elaborated in such a way that countries with lower standards that do not meet the requirements of the proposed Convention will have to change their policies before they are able to ratify the proposed Convention.

POLAND

The Government agrees with the proposed text.

All-Poland Trade Union Alliance (OPZZ). A Convention and a Recommendation concerning safety and health in agriculture are necessary. Their adoption should be supported by Poland, and the Government should aim for their prompt ratification for social reasons and because of the need for minimum standards on safety and health in this sector. In Poland, agriculture covers a large group of workers, and there are no legal regulations, and no institutional supervision of working conditions or compliance with fundamental standards concerning safety and health of persons employed in agri-

culture. This state of affairs also reflects the relatively low level of education and culture of this occupational group. The OPZZ is convinced that the adoption by the International Labour Organization of these instruments could, once they are ratified, result in positive change.

PORTUGAL

The Government considers that the high levels of occupational injury and disease in this sector justify the adoption by the International Labour Conference of a Convention and a Recommendation on safety and health in agriculture, without prejudice to specific comments on some provisions.

SOUTH AFRICA

Business South Africa (BSA). Any new international instruments should be practically implementable and affordable, as well as sufficiently flexible to accommodate the particular circumstances of different countries. This would encourage ratification and implementation. BSA is greatly concerned that any alternative approach would result in yet another addition to the long list of existing international labour instruments on safety and health and related issues in agriculture that are, judging by the very low level of ratification, of little value and significance in the workplace.

SPAIN

The instrument adopted should be a Recommendation, not a Convention. Consequently, the Preamble of the instrument should not include references to other Conventions and Recommendations, whether general or specific to agriculture.

SWEDEN

The Swedish tripartite ILO Committee finds that the proposed texts agree closely with the conclusions adopted by the International Labour Conference in June 2000 and thus constitute a satisfactory basis for discussion by the Conference at its 89th Session. The Swedish ILO Committee is pleased to note that a majority on the Conference Committee on Safety and Health in Agriculture has expressed itself in favour of a Convention and a Recommendation. An arrangement of this kind was advocated by the Swedish ILO Committee before the first discussion of the subject. As regards the content of the instruments, the Swedish ILO Committee believes that the texts should be of great benefit in promoting safer and healthier conditions in the world's agriculture, and considers that on the whole, the proposed Convention and Recommendation are clearly worded with regard to fundamental safety issues and requirements applying to machinery, chemicals and animal husbandry.

SWITZERLAND

Health protection and accident prevention in agriculture are very important subjects. It is evident that there are unacceptably wide variations in the working conditions of agricultural workers and farmers worldwide. Switzerland welcomes all efforts to

define minimum social conditions on occupational safety and health of agricultural workers. However, there is a problem in establishing strict rules and standards which cannot be observed by many countries. The agricultural sector in Switzerland meets most of the requirements set out in the proposed Convention, despite deficiencies in the field of agricultural inspection.

Confederation of Swiss Employers (UPS). The Confederation confirms its opposition to a Convention in this field. A Recommendation would be sufficient, given that the existing Occupational Safety and Health Convention, 1981 (No. 155), has not been very widely ratified.

Swiss Farmers' Union (USP). The USP does not have any objection in principle to international provisions on occupational safety and health. The proposed measures of the draft Convention and Recommendation are already implemented in Switzerland and many other European countries, and efforts to introduce provisions at the international level for workers' protection with effect throughout the world are supported. Unfortunately, Report IV (1) contains requirements that go far beyond safety and health in agriculture in the form of numerous provisions relating to environmental protection, insurance and technical standards. The question arises whether it makes sense to draft another Convention when existing Conventions have been ratified only by a minority of member States. It is therefore proposed that only a Recommendation be adopted, since more States can agree to a Recommendation, although obviously, not all of its proposed provisions would be implemented, since a Recommendation is less binding. However, it is better for safety and health worldwide if some of these provisions are implemented than to adopt a very restrictive Convention that would ultimately be ratified by only a few member States.

Industry and Construction Trade Union (SiB). A new Article 19 should be introduced concerning the management of working time. It is widely acknowledged that this subject is closely related to occupational safety and health. It is not our intention merely to seek restrictions of working time, but to formulate provisions to regulate the rhythm, schedules and periods of agricultural work.

Tunisia

A number of articles and paragraphs include the wording "after consulting the representative organizations of employers and workers concerned, taking into consideration the views of the representative organizations of self-employed farmers concerned, as appropriate". The two types of representative organizations are not necessarily regarded as equal: while there is to be "consultation" with the representative organizations of employers and workers, the competent authority needs only to "take into consideration" the views of the representative organizations of self-employed farmers. To avoid any misinterpretation and provide the same level of importance to both groups of representative organizations, the following wording is proposed: "after consulting the representative organizations of employers and workers concerned, as well as the representative organizations of self-employed farmers concerned".

United Kingdom

The text of the report is broadly in line with the Government's view as reflected in the conclusions of the Committee on Safety and Health in Agriculture at the 88th Ses-

sion of the International Labour Conference in 2000. The Government is therefore of the opinion that the proposed texts of the instruments provide a suitable basis for discussion at the 89th Session of the Conference in June 2001. However, environmental issues are not discussed in the text, which indicates a general omission in the proposed Convention. The Government would, in line with environmental policies, expect some reference to environmental protection issues arising from work in agriculture. The Government is in favour of the adoption of a flexible instrument capable of wide ratification by member States. It is therefore essential that the Convention should reflect minimum standards capable of being universally met or worked towards.

United States

United States Council for International Business (USCIB). The stated objective – to ensure that workers in agriculture enjoy safety and health protection equivalent to the protection enjoyed by workers in other sectors – has been thwarted, as the proposals contained in the proposed Convention and Recommendation far exceed the protections afforded to workers in other sectors. The proposed Convention creates burdensome costs which farmers, unlike most other businesses, cannot add on to the price of their products because farmers are "price takers". Moreover, the proposed Recommendation does not reinforce implementation of the proposed Convention. Instead, much of its guidance is directed towards extending the proposed Convention's provisions to unrealistic levels. The purpose of the proposed Recommendation is not to be inspirational but to provide concrete advice and guidance consistent with the terms of the proposed Convention.

General observations on self-employed farmers

Argentina

The concept of "self-employed farmers" should be defined by national legislation.

Australia

The Government notes that throughout the proposed texts of the Convention and Recommendation a distinction is drawn between workers, employers and self-employed farmers. The constant reference to self-employed farmers as a separate category from employers makes little sense.

Austria

Some member States, including Austria, draw a distinction between agricultural workers and self-employed farmers in matters relating to occupational safety. If self-employed farmers are included in the scope of paragraph 1(a) of Article 3, it should be amended to read as follows: "may exclude certain agricultural undertakings or limited categories of persons (workers and/or self-employed farmers) from the application of ...". As regards the repeated references to involving the representative

organizations of self-employed farmers in the national consultation process, this should not constitute an obstacle to ratification for those countries in which such organizations do not exist, as it is not a mandatory provision. Austria does not share the misgivings expressed during the discussions that such involvement could call into question the tripartism that is the hallmark of the International Labour Organization.

Barbados

BEC. The employers are opposed to the inclusion of self-employed farmers, in particular in view of the definition given in Report VI (2). The term would cover tenants, sharecroppers or small owner-occupiers who derive their main income from agriculture and who work the land themselves, with the help only of their families or of occasional outside labour. The term would also apply to other workers in agriculture, not listed, as may be specified by national laws or regulations.

Belgium

CNT. Texts related to self-employed farmers should be inspired by the Safety and Health in Construction Convention, 1988 (No. 167), and Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites, to avoid competitive distortion introduced by differences in the implementation of safety measures between the self-employed and enterprises employing waged workers.

Benin

The inclusion of a definition of "self-employed farmers" in the text of the Convention is not appropriate. The instrument should state clearly that the responsibility for defining the term should be left to the competent authority or national legislation, given the differences that exist between regions.

Cyprus

The term "self-employed farmers" should be defined in Article 1.

Denmark

The Government is of the opinion that it would be very difficult to reach an agreement on a definition of self-employed persons, given that the status of self-employed persons can be defined on the basis of many different criteria: tax conditions, contractual conditions, superior or subordinate position, etc. In relation to paragraph 2(c) of Article 4, a further specification of the term "self-employed" is not necessary, as this provision anticipates a definition of self-employed persons' rights and duties in relation to occupational safety and health. In this respect, it is not decisive where the line is drawn between the various groups, but rather that all relevant groups have appropriate rights and duties. According to the Government's interpretation of the proposed Convention, Articles 9 to 15 do not cover self-employed persons.

SALA. The Confederation considers that the term "self-employed" should be omitted from paragraph 2(c) of Article 4, but would have no objection to self-employed persons being covered to the same extent as in the Danish working environment legislation.

ETHIOPIA

A working definition of "self-employed farmers" should be provided, under "Definitions and scope", as the Office stated in Report VI (2). This is because the level of self-employed farmers differs according to countries' economic and industrial development, so that a concept or definition which can work for the majority of member States is needed.

FINLAND

The words "self-employed farmers" should be omitted. The legislative rights and obligations related to the occupational safety and health of self-employed farmers should be dealt with separately from the rights and obligations of employers and workers, and the relevant provisions should be transferred to the proposed Recommendation, to which their particular nature makes them better suited. Otherwise confusion might arise with paragraph 2(d) of Article 4 of the proposed Convention, which deals with corrective measures and appropriate penalties where agricultural risks are not eliminated, minimized or controlled.

SAK. The scope of application of the proposed Convention should be extended to self-employed farmers as well, in order to improve their occupational safety.

FRANCE

In the French text, the definition of "self-employed farmer" is ambiguous. Article 4 distinguishes between the category "travailleur" (worker) and "agriculteur indépendant" ("self-employed farmer"). This means that certain Articles, such as Article 7(b), Article 8, Article 11(2) and Article 16, which refer only to "workers", appear to exclude self-employed farmers. Therefore, it is necessary to specify which Articles concern self-employed farmers. Moreover, the Tenants and Share-croppers Recommendation, 1968 (No. 132), defines the terms "tenant" and "share-cropper" as agricultural workers who "work the land themselves or with the help only of their family", or "engage outside help within limits prescribed by national laws or regulations". The Office in Report VI (2) gives a similar definition of self-employed farmers as those who "do not permanently employ workers or employ a substantial number of seasonal workers". In such cases, self-employed farmers are employers rather than workers. It is very difficult to see how a person can be under the same obligations as employers while at the same time enjoying the same rights as employees. The resolution concerning the International Classification of Status in Employment (ICSE) of 1993 differentiates between "paid employment jobs" and "self-employment jobs", where remuneration depends directly on profits. The definition of "self-employed farmers" should be reviewed to remove the possibility of engaging waged workers, even temporarily. It could be as follows: "a person who exercises an activity outside any legal relationship of employment by or subordination to a third party".

GERMANY

The definition of "self-employed farmers" should not be included in Article 4, paragraph 2.

INDONESIA

APINDO. The association opposes the inclusion of "self-employed farmers". Particularly in the developing countries, most self-employed farmers, as mentioned in the Convention, have very small enterprises, with limited landholdings (less than 0.5 ha) and resources, and are regarded as very poor and of limited education. It would be extremely difficult for them to implement the provisions of the Convention.

ISRAEL

The term "self-employed farmers" should be defined in the proposed Convention, and the safety and health provisions should also apply to this category.

JAPAN

In Article 4, delete the reference in paragraph 2(c) to self-employed farmers and add a new paragraph 3 as follows: "The competent authority shall specify the rights and duties of self-employed farmers with respect to safety and health in agriculture." The rights and duties of employers and workers with respect to safety and health have been prescribed systematically in laws and regulations in Japan. But such domestic laws and regulations are applicable only to the employers and workers who have a legal employment relationship, and are not applicable to "self-employed farmers".

NIKKEIREN. The federation opposes the inclusion of the term "self-employed farmers" in Article 4, paragraph (2)(c), Article 6, paragraph (2), and elsewhere.

LEBANON

The definition of "self-employed farmers" should be left to the competent authority, national laws and regulations or national practice.

LESOTHO

ALE. There is a serious concern with regard to the reference to "self-employed farmers". The important relationships in the proposed Convention and Recommendation are those that exist between the government, employers and workers. The notion of self-employed farmers introduces a fourth category which is supposed to refer to a person who is an employer and an employee at the same time. This is unacceptable; one is either an employer or an employee, with clearly defined rights and obligations in each case.

MEXICO

The term "self-employed farmers" is understood in Mexico to refer to farmers who work independently and do not employ workers, and a distinction is drawn between

them and employees and workers in rural enterprises. As independent workers, they are responsible for their own occupational safety and health.

Norway

At the International Labour Conference in June 2000, much time was spent on discussing whether a proposed Convention should also apply to self-employed farmers. The definition of this term in Report VI (2) is unclear, and a more precise one is needed.

Confederation of Norwegian Business and Industry (NHO). The Confederation questions whether it is natural for self-employed persons to be covered by an ILO instrument designed to regulate the relationship between a worker and an employer.

South Africa

The reference to self-employed farmers should be deleted since they should be assumed to be covered by the definition of an agricultural undertaking.

Spain

References to self-employed farmers should be excluded from paragraph 2 of Article 4 and from Article 3, since they cannot be regarded as a differentiated group within the context of the provisions in question.

Sri Lanka

Lanka Jathika Estate Workers' Union (LJEWU). Definitive provisions must be made to cover self-employed farmers, who constitute the majority of agricultural workers in Sri Lanka. The definition of self-employed farmers should be a matter for national law and practice.

Switzerland

UPS. References to self-employed farmers should be excluded from the proposed Convention, in particular Article 2, paragraph 2(c) of Article 4 and paragraph 3 of Article 20.

USP. There is a problem regarding the definition of the "self-employed farmers" referred to in Report IV (1). In the current version, self-employed farmers are also covered. USP is opposed on principle to referring to self-employed farmers in the proposed Convention, but has no objections to including them in Paragraphs 12 and 13 of the proposed Recommendation. It makes sense to integrate self-employed farmers in safety and health programmes, where this is useful and feasible. As far as possible, this should be done on a voluntary basis.

Thailand

At present, national labour laws do not cover the self-employed person or worker who performs work without an employer. This may have created the obstacles to the specification of self-employed farmers' rights and duties as prescribed in the proposed

instruments and the identification of the representative organization of self-employed farmers.

Tunisia

The definition of "self-employed farmers" should be left to each member State, in the light of national circumstances.

United Kingdom

The proposed texts do not define the term "self-employed farmers" or related expressions other than in Paragraph 13(3) of the proposed Recommendation, which specifies some of the groups which might be covered by a definition of the term. A definition should be prepared as a basis for discussion at the 89th Session of the International Labour Conference, and the self-employed should be included in the provisions of the proposed Convention.

United States

USCIB. The term "self-employed farmers" should be deleted from Article 2 and paragraph 2(c) of Article 4. The ILO's definition in Report VI (2) is defective because it defines a self-employed farmer as someone who actually employs workers. A self-employed farmer is not an employer, but a person who farms his land sometimes with the help of family members. Self-employed farmers must clearly be excluded from the scope of employer-employee relations.

Office commentary concerning the references to self-employed farmers[1]

The principle that protection should be extended to *all workers*, including self-employed farmers, was fully endorsed in the Committee's discussions by both governments and the Workers' group. However, the Employers' group was against this on the basis of the principle of tripartism. The numerous comments received regarding the inclusion of self-employed farmers in the scope of the Convention reveal the same differences in views as those expressed in the course of the first discussion. For some governments, it was still unclear whether some of the provisions in the Convention applied to self-employed farmers or not. The position of most of the employers' organizations remained as before. It is to be noted, however, that the original text of the proposed Convention did not apply to self-employed farmers. The references to this group in the proposed Convention concerned: (a) their involvement in a consultation process, when appropriate, given that self-employed farmers represent a large proportion of the agricultural population and play an important role in the rural economy of many countries; and (b) their duties and obligations concerning collaboration with employers in the implementation of safety and health measures. "*Where appropriate*" is to be understood as "when required and when the competent authority considers it

[1] Paragraphs 12 and 13 of the proposed Recommendation (Points 36 and 37 of the Conclusions).

necessary". The reference to self-employed persons' duty to cooperate with the employer(s) in applying the required safety and health measures, when the employers are engaged in activities in the same agricultural workplace, has been retained in Article 6 of the proposed Convention. The provisions which directly concerned self-employed farmers were to be found in the proposed Recommendation (Paragraphs 12 and 13). Those provisions dealt with the safety and health advice that the competent authority should provide to self-employed farmers and those working with them. To achieve greater clarity and in order to produce a more flexible instrument, the Office decided to transfer all references to self-employed farmers in Articles 3, 4, 11, 16 and 20 of the proposed Convention to the proposed Recommendation (see in particular Paragraphs 12-15).

Members should keep in mind that Article 3 of the proposed Convention allows for the exclusion of certain categories of workers or of undertakings from the scope of the instruments. Small farms or small farmers could therefore be excluded from the scope of the Convention if the Member considers it necessary. For the Office, a self-employed person is any person who is not an employer or a worker in the ILO's context. Therefore, owner-occupiers, farmers and their families who do not use outside help or who would only use limited occasional outside help (for example during harvesting) would be regarded as self-employed and not as employers in the traditional sense. During the Committee's discussions, the Secretariat provided a *working definition* of self-employed farmer which can also be found in Report VI (2) on safety and health in agriculture. The definition provided by the Office is consistent with the International Classification of Status in Employment (ICSE/93) and the Tenants and Sharecroppers Recommendation, 1968 (No. 132). The employers, in particular, expressed concern about the formulation of the definition. This was given as a reference and not as an official definition. In their replies to the report a number of governments expressed differences in views about providing a definition of "self-employed". The Office considers that *a self-employed person must be defined by national laws and regulations, by the competent authority or by national law and practice in each member State*. The Office therefore prefers not to propose a definition and leaves it for the Conference to consider if it so wishes.

Observations on the proposed Convention concerning safety and health in agriculture[2]

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 89th Session on June 2001, and

Noting the principles embodied in the relevant international labour Conventions and Recommendations, in particular the Occupational Safety and Health Convention and Recommendation, 1981, and the Occupational Health Services Convention and Recommendation, 1985; the Plantations Convention and Recommendation, 1958; the Employment Injury Benefits Convention and Recommendation, 1964; the Labour

[2] The observations are preceded by the relevant texts as given in the proposed Convention set out in Report IV (1).

Inspection (Agriculture) Convention and Recommendation, 1969; and the Chemicals Convention and Recommendation, 1990, and

Stressing the need for a coherent approach to the sector and taking into consideration the wider framework of the principles embodied in other ILO instruments applicable to agriculture, in particular the Freedom of Association and Protection of the Right to Organise Convention, 1948; the Right to Organise and Collective Bargaining Convention, 1949; the Minimum Age Convention, 1973; and the Worst Forms of Child Labour Convention, 1999, and

Noting the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, as well as the relevant codes of practice, in particular the Code of practice on recording and notification of occupational accidents and diseases, 1996, and the Code of practice on safety and health in forestry work, 1998, and

Having decided upon the adoption of certain proposals with regard to safety and health in agriculture, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this day of June of the year two thousand and one the following Convention, which may be cited as the Safety and Health in Agriculture Convention, 2001:

Observations on the Preamble

Belgium. CNT. Insert references to the Safety and Health in Construction Convention, 1988 (No. 167), and its accompanying Recommendation, as well as to the Migrant Workers Recommendation, 1975 (No. 151), given that migrant workers make up a considerable proportion of the agricultural workforce.

Lebanon. It is understood that member States which ratify the proposed Convention are not bound to ratify or to apply the Conventions and Recommendations mentioned in the Preamble. It is proposed to add a reference to the Occupational Cancer Convention, 1974 (No. 139).

Morocco. Add a new paragraph with the following text: "Affirming the importance and necessity of involving workers or their representatives in the formulation and implementation of measures concerning protection against safety and health hazards at the workplace, and ...".

Sweden. In view of the decision by the Governing Body of the ILO in November 2000 to include the subject of "Recording and notification of occupational accidents and diseases" on the agenda of the International Labour Conference in 2002 for the single-discussion procedure, with the result that a new instrument can already be expected in 2002, the Swedish ILO Committee finds the reference to the 1996 Code of practice less appropriate. The examples based on "the relevant codes of practice" should accordingly be deleted.

United Kingdom. The United Kingdom Government agrees with the proposed text.

Office commentary

Few comments were received on the Preamble. The changes suggested by *Belgium* and *Morocco* were not taken up by the Office, which prefers to leave it to the Conference to discuss these proposals if it so wishes.

With regard to the observations of the Government of *Lebanon*, the reference to ILO standards in the Preamble is a recognized principle which implies that the univer-

sal value of the instruments referred to is kept in mind in the application of the Convention. Such a reference does not impose any obligation to ratify or comply with the specific provisions of the instruments in question.

As regards the observations of the Government of *Sweden*, ILO codes of practice are not legally binding documents and are not intended to replace national laws, regulations or accepted ILO standards. Their purpose is to provide practical guidance to those who may be engaged in framing provisions or in setting up systems, procedures and arrangements in a particular area. Their provisions are regarded as generally agreed basic requirements and are not intended to discourage the adoption of higher national standards. The Code of practice on recording and notification of occupational accidents and diseases is an official document adopted by a Meeting of Experts and approved by the Governing Body in 1994 and is not intended to be revised or updated in 2002. The item on the agenda of the Conference for 2002 concerns the adoption of new international standards on the same subject based on and compatible with the above-mentioned Code. This will complement the new standards as has been done for other areas, such as chemical safety, major hazards control, mining and construction.

The Preamble appears unchanged as the Preamble of the proposed Convention.

I. Definitions and scope

Article 1

For the purpose of this Convention the term "agriculture" covers:

(a) all activities (whether indoor or outdoor) directly related to cultivating, growing, harvesting and primary processing of agricultural products, to animal and livestock breeding including aquaculture and to agroforestry;

(b) all agricultural undertakings, irrespective of size; and

(c) all machinery, equipment, appliances, tools, agricultural installations and any process, storage, operation or transportation, in an agricultural workplace, which are directly related to agricultural production.

Observations on Article 1

Belgium. In subparagraph (a) in the French text, the expression "l'élevage d'animaux et de bétail" could be replaced with "l'élevage d'animaux" or "l'élevage d'animaux de rente et d'animaux de compagnie" with a view to extending the scope. Since the terms "agroforestry" and "industrial exploitation of forests" are not defined, some activities could be considered as part of one or the other activity, depending on who is using the terms, and this may lead to disputes.

CNT. If "aquaculture" includes "fish farming", there are no objections. The forestry industry should not be excluded from the scope of the instrument.

Benin. Agrees with the proposed text.

Brazil. National legislation in Brazil does not include primary processing within the scope of agriculture.

CNA. The term "agriculture" should be defined in subparagraph (a) as "all activities directly related to land cultivation, growing and harvesting crops, animal and live-

stock breeding, rural extraction processes, aquaculture, forestry and agro-industry, inasmuch as they involve primary processing activities".

Subparagraphs (b) and (c): The Government, CNA and CONTAG agree with the proposed text.

Egypt. Agrees with the proposed text.

Finland. FAE and TT. The term "agroforestry" should be omitted, since it may cause problems of interpretation. In the Nordic countries, including Finland, agroforestry is partly convergent with forestry work and is practised on an industrial scale. Thus, there may be uncertainties as to whether or not forestry work done on Finnish farms is covered by the term "agroforestry". Furthermore, the Code of Practice in Forestry Work adopted by the ILO in 1997 already applies to occupational safety and health in forestry work.

France. It is difficult to define an action or activity in terms of the type of machinery used in it. For greater consistency, subparagraph (c) should be redrafted to indicate that the Convention covers "activities involving the use of machinery, equipment, appliances, tools, agricultural installations and any process, storage, operation or transportation, in an agricultural workplace, which are directly related to agricultural production". The wording of the Article should also be modified to state that agriculture covers forest exploitation (tree felling, branching and pruning work) but not secondary processing (e.g. at sawmills).

Kuwait. In Article 1, subparagraphs (a) and (b), the term "agriculture" should be extended to cover farms owned by individuals, as well as machinery and equipment owned by them, in the light of the provisions of Article 2; the term should not be limited as it is in the present text.

Lebanon. In subparagraph (a), does the term "animal and livestock breeding" cover bee-keeping and silkworm breeding? If not, they should be added. It should also be clarified whether the term also covers horse breeding. In subparagraph (c), as regards transportation, the provisions of the proposed Convention should exclude truck drivers who transport agricultural products, as they bear no relation to agricultural work.

Mexico. In subparagraph (a), the term "primary processing" should be clarified. It should also be stated whether transportation of raw products from the field and their packing will be included. In subparagraph (c), the term "any process" should only cover "primary processing".

Niger. SYNTAC. The term "primary processing" might cause confusion, since this might involve industrial processes such as cotton ginning, peanut shelling, etc. This point needs clarification. Similar confusion could arise from the term "subsistence farming" in Article 2, given that subsistence farming may involve activities that are directly related to the cultivation and agricultural undertakings referred to in Article 1.

Norway. It is proposed that "aquaculture" be included in the definition of agriculture, since fish breeding in pools on land is an integral part of agriculture in many countries. In our opinion, however, the case of marine aquaculture should not be covered by the term "agriculture", since this is a separate branch of industry that differs greatly from agriculture both in Norway and other countries.

Poland. OPZZ. Given the absence of occupational safety and health provisions covering agricultural production in Poland, it seems necessary to define the primary processing of agricultural products, in particular with regard to small farms.

Portugal. Portugal agrees with the definition of agriculture, in particular with the inclusion of agroforestry.

General Union of Workers (UGT). The exclusion of forestry poses a serious problem, especially for the Mediterranean forest countries, where the traditional workforce is large and the number and severity of occupational accidents are greater than in traditional agriculture. This exclusion constitutes a serious infringement of the safety and health of forestry workers, particularly considering that during the first discussion of the proposed Convention, supporters of the exclusion were mainly from countries where the industrial exploitation of exotic timber has led to the uncontrolled destruction of wild forest, or where industrial forestry is geared to cellulose production. It is therefore proposed to add the words "and any other forestry work, from land clearing to wood harvesting and wood extraction" at the end of subparagraph (a). Also insert the words "and forestry" at the end of subparagraph (c), to read "... related to agricultural and forestry production".

Spain. The text could be clarified. The references to two major subsidiary activities (transportation and storage of products), which constitute similar production steps to cultivation and harvesting, should be transferred from subparagraph (c) to subparagraph (a) (concerning agricultural activities). Moreover, the term "agriculture" should not cover machinery, equipment, appliances, tools or agricultural installations. This should be left to member States to decide in accordance with national legislation, particularly legislation concerning agricultural installations.

Switzerland. Add a reference to agriculture-related services such as agro-tourism.

Thailand. The term "primary processing of agricultural products" should be defined precisely and it should cover those agricultural products which still maintain their original features after processing.

United Kingdom. The Article should provide an adequate definition of the terms "aquaculture" and "agroforestry" if these are to be covered by the proposed Convention.

Office commentary

The replies revealed a need for further clarification concerning the scope of the instruments. Article 1 was redrafted based on observations from member States which highlighted issues that are critical in determining the scope. Consistency between the English, French and Spanish versions was also sought. The term "agroforestry" was deleted, as the Government of *Finland* had suggested, to avoid interpretation problems. The references to aquaculture and livestock breeding were replaced with animal husbandry and insect breeding in order to include all types of animal (cattle, sheep, goats, horses, poultry, pigs, fish and shellfish, silkworms) and the breeding of insects (such as honey bees). For the purpose of these standards, animal husbandry is to be understood to cover: (a) the rearing and use of herds of animals, including breeding, feeding, moving animals from one location to another, basic care (e.g. hoof care, cleaning, vaccinations), care for injured animals (either by animal handlers or veterinar-

ians); (b) insect breeding, such as bee-keeping and the raising of other insects for laboratory use and pest control; and (c) the particular activities associated with animal and insect breeding (such as milking of cows, poultry grading, insemination, fish farming, working with draught animals). In response to the requests of some governments, the term "aquaculture" means the farming of aquatic organisms including fish, molluscs, crustaceans and aquatic plants. "Farming" implies some sort of intervention in the rearing process to enhance production, such as regular stocking, feeding and protection from predators, and is included in the scope of the instrument, even if no longer explicitly mentioned.

Primary processing is to be understood as treatment or preparation for a first level of transformation of agricultural commodities associated with crop farming, animal and insect husbandry (such as sheep shearing, silkworm production, or production of copra from coconut), on the assumption that it is limited to the processing of primary products, takes place on the farm, is done by the operator of the holding and is not part of the industrialized processing of agricultural raw materials by agro-enterprises (such activities would go beyond the scope of these standards and would concern manufacturing). Account is taken of the fact that in certain countries, large plantations and manufacturing plants can be part of a single enterprise that produces a certain commodity and processes it industrially. In such cases, these provisions will apply only to the cultivation process and the industrial processing of the agricultural commodities will be a matter for other relevant standards.

In order to give flexibility to the instrument and to allow member States to take into account the size of the enterprise and the number of workers when determining the scope of the standards, the reference to "all agricultural undertakings, irrespective of size" has been deleted. This consideration also applies when complying with Articles 3, 6 and 7 of the Convention.

The Article, with the amendments noted above, appears as Article 1 of the proposed Convention.

Article 2

For the purpose of this Convention the term "agriculture" does not cover:

(a) subsistence farming;

(b) industrial processes that use agricultural products as raw material and the related services; and

(c) any work performed in a forest related to industrial exploitation of forests.

Observations on Article 2

Argentina. The exclusion of "subsistence farming" (as defined by the Office) will place the majority of the agricultural workers in Argentina outside the scope of the Convention and thus at a disadvantage with regard to their working and living conditions. It will also be detrimental to sustainable development.

Belgium. CNT. The National Labour Council is not favourable to the exclusion of industrial forestry in Article 2, subparagraph (c).

Brazil. The Government, CNA and CONTAG agree with the proposed text.

Egypt. Agrees with the proposed text.

France. Article 2 of the proposed Convention excludes subsistence farming from its scope. However, according to the definition given during the first discussion, a subsistence farmer can sell part of his production to obtain other essential goods, becoming in effect a small agricultural undertaking. The exclusion of subsistence farming *per se* contradicts Article 1, which states that all agricultural undertakings should be included, irrespective of size. On the other hand, farmers producing solely for their personal or family consumption could be excluded from the scope of the proposed Convention, since their property is not an undertaking. Furthermore, Article 1 states that "agriculture" includes agroforestry, even though according to Article 2 the term "agriculture" does not cover "any work performed in a forest related to industrial exploitation of forests". If the wording of subparagraph (c) excludes fixed or mobile sawmills from the scope of the proposed Convention, questions arise regarding its applicability to tree felling, or branching and lopping work. The place of forestry work is ambiguous, and owing to the contiguity of those subparagraphs it is not clear whether traditional or mechanical forest work is included or not. The term should be clarified.

Lebanon. Agricultural work done for the purpose of industrial exploitation should be excluded from the proposed Convention. If subparagraph (b) does not imply this exclusion, a new subparagraph (d) should be added for that purpose.

Niger. SYNTAC. See comment on Article 1.

Poland. OPZZ. This Article provides that the definition of agriculture excludes "subsistence farming". This provision brings about certain formal problems owing to the nature of agricultural activity in our country. The proposed Convention would probably exclude a considerable number of individual farms, or cover them at a later date, because many farms produce only for their own needs or do not produce anything at all.

Portugal. At the end of subparagraph (c), replace the words "of forests" with "of timber".

Slovakia. Subparagraph (a) should define more precisely whether (only) persons owning gardens or private plots or small farmers owning a certain property and not producing for sale (i.e. for their own consumption) are excluded, or whether other types of workers are also concerned. It is necessary to define this group precisely so that it matches provisions elsewhere. For example, the proposed Recommendation refers to "small owner-operators" and other types of self-employed farmer. In subparagraph (c), it would be appropriate to define more closely the term "industrial exploitation of forests"; it is understood that this refers to the extraction of timber.

Spain. Subparagraph (c) appears to exclude forestry from the scope of the proposed Convention. There would thus appear to be a contradiction between Articles 1 and 2: in Article 1, the term "agriculture" covers "all activities directly related to [...] agroforestry", and in Article 2, the same term excludes "any work performed in a forest related to industrial exploitation of a forest". In principle, Spain supports a comprehensive instrument which includes forestry. The high incidence and the severity of injuries and diseases related to forestry work call for an international labour instrument providing for protective measures concerning occupational safety and health in this sector.

Switzerland. USP. In subparagraph (a), the term "subsistence farming" should be replaced with the following: "agricultural activities of undertakings not employing workers other than family members".

United Kingdom. All forestry and related work up to the point of secondary processing of timber should be included within the provisions of the proposed Convention.

Office commentary

Subsistence farming does not involve employment relations or wage labour and is outside the scope of these standards. These activities are done for the purposes of *survival* of the members of the family and not for commercial purposes. The terms "subsistence agriculture" and "subsistence farming" concern growing and harvesting of fields, trees, shrubs, crops, vegetables and fruits, hunting of animals, gathering of wild fruits and plants, catching fish and gathering of other forms of aquatic life in order to provide food, shelter and a minimum cash income for the households concerned.[3]

Subparagraph (c) has been edited for consistency with the deletion of "agro-forestry" in Article 1, in line with the comments from the Government of *Finland*. Some governments and workers' organizations still consider that forestry should be covered by the instruments. This would imply the incorporation of new provisions to cover the specific hazards and preventive measures related to the forestry industry. The Office has decided to leave it to the Conference to decide whether or not to include forestry in the scope of the instruments.

The Article, with the amendments noted above, appears as Article 2 of the proposed Convention.

Article 3

1. The competent authority of a Member which ratifies the Convention, after consulting the representative organizations of employers and workers concerned, taking into consideration the views of the representative organizations of self-employed farmers concerned, as appropriate:

(a) may exclude certain agricultural undertakings or limited categories of workers from the application of this Convention, or certain provisions thereof, when special problems of a substantial nature arise; and

(b) shall, in the case of such exclusions, make plans to cover progressively all undertakings and all categories of workers.

2. Each Member shall list, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organization, any undertaking or category of workers which has been excluded, giving the reasons for such exclusion. In subsequent reports, it shall describe the measures taken with a view to extending progressively the provisions of the Convention to the workers concerned.

[3] According to the International Standard Classification of Occupations, 1988 (ISCO-88).

Observations on Article 3

Brazil. The Government, CNA and CONTAG agree with the proposed text.

Egypt. Agrees with the proposed text.

Japan. Delete paragraph 1(b) and move paragraph 1(a) to the end of paragraph 1 which will then read as follows: "The competent authority of a Member which ratifies the Convention, after consulting the representative organizations of employers and workers concerned, taking into consideration the views of the representative organizations of self-employed farmers concerned, as appropriate, may exclude certain agricultural undertakings or limited categories of workers from the application of this Convention, or certain provisions thereof, when special problems of a substantial nature arise." There are various reasons for excluding certain agricultural undertakings from the scope of the Convention. Working conditions in agriculture are not uniform. It is not realistic to regulate "all undertakings and all categories of workers" in agriculture through the provisions of this Convention. Paragraph 2 is sufficient to ensure that the scope of application can be extended in future.

Kuwait. Agrees with the proposed text.

Lebanon. It is understood that the term "as appropriate" at the end of paragraph 1 means that the competent authority is not obliged to make plans to cover progressively all undertakings and all categories of workers, and that it is left to the competent authority to decide when to make such plans, referred to in paragraph 1(b). It is proposed that the final sentence of paragraph 2 should be redrafted as follows: "In subsequent reports, it should describe the measures that it has already taken with a view to ...", in the interests of consistency with paragraph 1, and given that it is for the member State to decide when to make plans aimed at extending the provisions of the proposed Convention and to inform the International Labour Organization as soon as this is done.

South Africa. BSA. In paragraph 1(a), clarification is required on the definition of the word "substantial" in the phrase "special problems of a substantial nature".

Sweden. In paragraph 1(a), the first line should read: "may exclude certain limited categories of agricultural undertakings or limited categories of workers ...".

Tunisia. In the French version of paragraph 1(a), replace the words "lorsque des problèmes particuliers et sérieux se posent" with "lorsque des problèmes particuliers d'une certaine importance se posent", which is employed in some other ILO instruments, for example, in the Prevention of Major Industrial Accidents Convention, 1993 (No. 174).

Office commentary

The reference to self-employed farmers has been deleted from the text of the Convention and transferred to the Recommendation (see the Office commentary in the General observations on self-employed farmers).

The Article as amended appears as Article 3 of the proposed Convention.

II. General provisions

Article 4

1. In the light of national conditions and practice and after consulting the representative organizations of employers and workers concerned, taking into consideration the views of the representative organizations of self-employed farmers concerned, as appropriate, Members shall formulate, carry out and periodically review a coherent national policy on safety and health in agriculture. This policy shall have the aim of preventing accidents and injury to health arising out of, linked with, or occurring in the course of work, by eliminating, minimizing or controlling hazards in the agricultural working environment.

2. To this end, national laws and regulations shall:

(a) designate the competent authority responsible for the implementation of the policy and for the enforcement of national laws and regulations on occupational safety and health in agriculture;

(b) establish mechanisms of inter-sectoral coordination among relevant authorities and bodies in the agricultural sector and define their functions and responsibilities taking into account their complementarity and national conditions and practice;

(c) specify the rights and duties of employers and workers and self-employed farmers with respect to safety and health in agriculture; and

(d) provide for corrective measures and appropriate penalties including, where appropriate, the suspension or restriction of agricultural activities on the grounds of safety and health, until the conditions giving rise to the suspension or restriction have been corrected.

Observations on Article 4

Argentina. The term "so far as is technically possible" would be the appropriate wording in paragraph 1, as the minimization or elimination of a risk is limited by technical difficulties. In paragraph 2(d), only the competent authority should provide for the suspension or restriction of agricultural activities.

Barbados. BEC. Paragraph 2(d), which states that national laws and regulations should provide for the "suspension or restriction of agricultural activities on the grounds of safety and health", is of serious concern to employers. This may not only be a discriminatory measure, since it does not apply to employers in other sectors, but would also have the effect of preventing due legal process and adversely affecting workers if enterprises had to close down. This wording should be deleted or transferred to the Recommendation.

Belgium. In paragraph 1 in the French text, the wording "raisonnablement réalisable" is preferred.

Brazil. The Government, CNA and CONTAG agree with the text of Article 4, paragraphs 1, 2(a), 2(b) and 2(c). Delete the word "restriction" in paragraph 2(d).

Chile. The introduction of the wording "so far as is reasonably practicable" in paragraph 1 in the interests of flexibility would promote deregulation and is at variance with the purpose of the instruments, which is to promote the elimination, reduction or control of risks in workplaces.

Cyprus. Paragraph 2(b): Only one competent authority should be designated to enforce legislation, so as to ensure consistency and coherence in the system, and that authority should act as the inter-sectoral coordinator.

Denmark. In paragraph 2(d), changes are rendered unnecessary by the words "where appropriate". The Danish Government does not consider that the wording "so far as is reasonably practicable" should be introduced.

SALA. The wording "so far as is reasonably practicable" should be introduced in paragraph 1, in order to increase the flexibility of the Convention. As regards paragraph 2(d), SALA finds it unacceptable that the Convention requires national legislation to provide for "the suspension of agricultural activities on the grounds of safety and health". Of course, SALA agrees that it must be possible to suspend hazardous agricultural activities in cases where an acceptable safety level can be achieved only through serious intervention. However, wording so broad as to allow suspension even of agricultural activities that do not pose a threat to safety and health is not in accordance with the principles on which Danish criminal law and administration of justice is normally based. Suspension should only be possible specifically in relation to "hazardous agricultural activities".

Egypt. Agrees with the proposed text.

Ethiopia. The reintroduction of the terms "so far as is reasonably practicable" is supported, as this will introduce a degree of flexibility in implementation.

Estonia. In paragraph 2, add a new subparagraph (e) as follows: "prescribe provisions for the prevention of occupational injuries and diseases".

Finland. FAE, MTK and TT. In its proposed form the text of the Article could mean that practical aspects may not be taken into consideration when national policy or laws on occupational safety in agriculture are formulated. For this reason, the words "so far as is reasonably practicable" should be added at the end of the second sentence of paragraph 1, before "hazards in the agricultural working environment", in accordance with the Office's original proposal.

Germany. Neither the expression "so far as is reasonably practicable" nor the expression "so far as is possible" should be included in paragraph 1.

Indonesia. APINDO. The phrase "so far as is reasonably practicable" should be included in paragraph 1. This is very important for business. With regard to paragraph 2, concerning "the suspension or restriction of agricultural activities on the grounds of safety and health", APINDO is strongly opposed to this position. It is not merely a discriminatory measure, but will also be a serious obstacle to agricultural business in the coming era of globalization (particularly for developing countries). It should be transferred to the proposed Recommendation.

Japan. Modify paragraph 2(b) by inserting the terms "where necessary" after the word "establish" to read: "establish, where necessary, mechanisms of inter-sectoral coordination ...". The provisions of the proposed Convention should accommodate the situation of member States which have already established a cooperation mechanism.

NIKKEIREN. In paragraph 1, it is regrettable that the expression "so far as is reasonably practicable" was removed during the first discussion at the session of the International Labour Conference in 2000. In order to make the proposed Convention ratifiable, this paragraph should have more flexibility. In paragraph 2(b), the expression "if necessary" should be inserted after the word "responsibilities".

Lebanon. In paragraph 2(a), the expression "or authorities" should be added after the expression "the competent authority", in conformity with paragraph 2(b). Para-

graph 2(d) should discourage hesitation in undertaking the required measures in the field of safety and health.

Lesotho. ALE. The phrase "so far as is reasonably practicable" should be reintroduced in the text of paragraph 1, and ALE considers the Office explanation for its removal unconvincing and unsatisfactory. This terminology is already in use in other ILO instruments and cannot therefore cause any confusion. Paragraph 2(d) entails draconian measures against farmers and ALE considers that it should be transferred to the proposed Recommendation. Suspension of activities has serious implications for agricultural production and should be resorted to only after due legal process.

Niger. SYNTAC. Article 4 should include a reference to the different occupational accidents encountered in different countries with a view to facilitating the formulation of clear national policies on safety and health in agriculture.

Norway. The Government draws attention to the Office's original proposal in connection with the elimination and control of hazards, which includes the phrase "so far as is reasonably practicable". Some work in agriculture is invariably associated with hazards which can neither be eliminated nor completely controlled. A wording equivalent to that employed in the Office's original proposal would be highly desirable.

LO. Supports the proposed text of paragraph 1.

Poland. OPZZ. Agrees with the proposed text. Implementation of the Polish "Pact for agriculture and rural areas" will also influence the application of this Article of the proposed Convention.

Portugal. UGT. In paragraph 2(a), insert the word "public" between the words "competent" and "authority". At the end of the sentence, add the following: "including the right to appoint representatives on joint safety and health committees at the enterprise or regional level, providing them with the necessary means and working conditions for the performance of their duties".

South Africa. BSA. In paragraph 1, the decision taken at the International Labour Conference in 2000 to delete the phrase "so far as is reasonably practicable" has resulted in a paragraph that is unrealistic, cannot be implemented and will discourage ratification. It is practically impossible to eliminate, minimize or control "all hazards" in the agricultural working environment. Indeed, the same holds true of any other working environment. BSA would therefore urge that the wording "so far as is reasonably practicable" be reinserted at the end of the paragraph. In paragraph 2(d), BSA is totally opposed to the notion of suspending agricultural activities. Such a suspension could jeopardize the food supply in a particular region and have serious economic and social consequences. The reference to "suspension" should therefore be deleted. The following wording is proposed instead: "... provide for corrective measures and appropriate penalties for violations of the law, including, where appropriate, the restriction of those agricultural activities which pose an imminent danger to the safety and health of workers until the conditions giving rise to the restriction have been corrected".

Switzerland. The provisions in paragraph 2 seem too demanding and would create burdensome administrative costs. It will generate an interventionist structure where it would be better to establish a system based on personal responsibility (with the emphasis on education, training and counselling).

UPS. Delete the provisions on the suspension or restriction of agricultural activities on the grounds of safety and health. It would adversely affect workers at the enterprise concerned without promoting occupational safety.

USP. In paragraph 2(d), delete the word "suspension", as suspension of the activities of units or entire undertakings can have devastating financial consequences for the undertaking and result in bankruptcy, which is no good either for safety and health or for workers.

United Kingdom. The expression "so far as is reasonably practicable" should be reintroduced in paragraph 1.

United States. USCIB. The deletion of the expression "so far as is reasonably practicable" in paragraph 1 is a substantive change, creating an unqualified, absolute requirement that does not recognize the economic and technical realities of farming. The proposed Convention cannot be ratified without this realistic and pragmatic wording which should therefore be restored. The language of paragraph 2(d), which states that national laws and regulations should provide for "the suspension or restriction of agricultural activities on the grounds of safety and health", should be deleted or transferred to the proposed Recommendation. If retained, it would have the effect of preventing due legal process and adversely affecting workers, if enterprises had to cease operations. Retention of the phrase would have discriminatory economic consequences for agricultural employers, in particular, because it applies a standard to them that is not applied to other employers.

Office commentary

The comments received reveal the same difference of views as those expressed in the course of the first discussion. Extensive discussions took place during the sitting of the Committee on Safety and Health in Agriculture surrounding the phrase "so far as is reasonably practicable". After much deliberation and Office legal advice, it was found neither necessary nor appropriate to add this phrase or variations of it. The issue was raised again in the replies, and the Office therefore considered it necessary to provide clarification. The meaning of the phrase "so far as is reasonably practicable" has been discussed on several occasions by technical Conference committees,[4] particularly in relation to texts using absolute terms, such as wording to the effect that "safe means of transport to places of work shall be provided". It should be noted that in the present case the proposed Convention has not been worded in absolute terms.

In certain legal systems, a requirement formulated in such terms would, in the absence of any qualifying condition such as "so far as is reasonably practicable", be interpreted as an absolute requirement. In other legal systems, provisions expressed in absolute terms are interpreted as implying an obligation of means, not of results, and thus already imply a condition of what is "reasonable" and "practicable".

In 1988, in a legal opinion on this point given at the request of a Conference technical committee,[5] it was noted that introducing such a clause into the French language

[4] ILO: *Record of Proceedings*, International Labour Conference, 64th Session, Geneva, 1978, para. 39, p. 30/5; *Record of Proceedings*, International Labour Conference, 65th Session, Geneva, 1979, paras. 31, 32, p. 28/5; *Record of Proceedings*, International Labour Conference, 71st Session, Geneva, 1985, para. 123, p. 33/14; *Record of Proceedings*, International Labour Conference, 73rd Session, Geneva, 1987, paras. 48, 52, 71, 73, p. 23/8.

[5] ILO: *Record of Proceedings*, International Labour Conference, 75th Session, Geneva, 1988, paras. 8-11, p. 25/2.

text of the Convention might entail a reduction in the level of protection provided. In order to circumvent the differences in approach between national legal systems in the interpretation of the French and English texts, which are both equally authoritative, the Conference Committee decided on that occasion not to include the phrase "so far as is reasonably practicable" as being neither necessary nor appropriate, given that the principle which that phrase expresses would already be an integral element of the provisions of the instrument, as is the case with the present proposed text.

Subparagraph (d) has been replaced with a new paragraph 3 to clarify that only the competent authority can provide for corrective measures and appropriate penalties and that the suspension or restriction of agricultural activities should only take place in the case of a threat to safety and health. This situation should only arise in rare circumstances, if risk management procedures are applied correctly. "*Where appropriate*" is to be understood as "when required and when the competent authority considers it necessary". This provision is in relation to the risk assessment and management procedures described in the new Paragraph 5 of the proposed Recommendation.

The reference to self-employed farmers has been deleted from the text of the Convention and transferred to the Recommendation (see the Office commentary in the General observations concerning the references to self-employed farmers).

The Article as amended appears as Article 4 of the proposed Convention.

Article 5

1. Members shall ensure that an adequate and appropriate system of inspection for agricultural workplaces is in place and is provided with adequate means.

2. If necessary, the competent authority may either entrust certain inspection functions at the regional or local level, on an auxiliary basis, to appropriate government services or public institutions or associate these services or institutions with the exercise of such functions.

Observations on Article 5

Brazil. The Government, CNA and CONTAG agree with the proposed text.

Cyprus. A provision should be included in paragraph 1 to the effect that the system of inspection for agricultural workers is integrated in the general labour inspection system.

Egypt. Agrees with the proposed text.

Kuwait. Approves and supports efforts made to create a work environment that is safe and healthy in agriculture. However, the proposed Convention should provide for explicit measures to keep up with inspection policies in member States in order to safeguard worker protection as well as safety and health in agriculture, on condition that such measures in this regard do not result in costly obligations imposed on employers. It is also more appropriate for the ILO to address the problem of safety and health in agriculture through technical cooperation.

Lebanon. Delete the following wording: "... or associate these services or institutions with the exercise of such functions" in paragraph 2, as well as the term "either" in the first line of the same paragraph.

Poland. OPZZ. In Poland, there is no integrated system of inspection in agriculture, because in practice the State Labour Inspectorate covers only institutional employers in the agricultural sector. The Inspectorate does not monitor working conditions and safety on individual farms, where many employees and owners' children work.

South Africa. BSA. An inspection system "with adequate means" might simply be unaffordable in poorer countries and could well discourage ratification.

Switzerland. The organization of a system of inspection should be left to each member State. If inspection services are to be created, a size threshold should be specified for enterprises concerned (for example, enterprises employing at least 20 workers).

Office commentary

Very few comments were received with regard to Article 5, implying general acceptance of its provisions. The Article without amendments appears as Article 5 of the proposed Convention.

III. Preventive and protective measures

General

Article 6

1. National laws and regulations shall provide that the employer has a duty to ensure the safety and health of workers in every aspect related to the work.

2. National laws and regulations shall provide that, whenever two or more employers or self-employed persons engage in activities in the same agricultural workplace, they shall cooperate in applying the safety and health requirements. In appropriate circumstances the competent authority shall prescribe general procedures for this collaboration.

Observations on Article 6

Brazil. The Government, CNA and CONTAG agree with the proposed text.

Egypt. Agrees with the proposed text.

Finland. In paragraph 2, the words "self-employed persons" should be omitted. The proposal would mean the extension of responsibility for occupational safety and health in agricultural work to completely new groups. It would also require a fundamental revision of Finnish legislation.

SAK. Approves the inclusion of self-employed farmers in this Article to extend the scope of the proposed Convention to them.

Japan. Modify paragraph 2 to read "National laws and regulations or the competent authority, where appropriate, shall provide ...". To apply the same national safety and health laws and regulations to all types of agricultural work will not meet safety and health needs in agriculture, because safety and health requirements in the sector

depend on the type of work (upland cropping, forest industry, aquaculture, animal husbandry, etc.). The possibility of allowing the competent authority to regulate safety and health in agriculture in the light of the specific needs of the agricultural work concerned should not be precluded.

Lebanon. In paragraph 2, delete the expression "In appropriate circumstances" in the final sentence, which will then read: "The competent authority shall prescribe general procedures for this collaboration."

Spain. The final sentence of paragraph 2 ("In appropriate circumstances the competent authority shall prescribe general procedures for this collaboration") should be deleted, since national laws and regulations already provide for such collaboration between employers or self-employed persons engaged in activities in the same agricultural workplace. However, if this phrase is maintained, the text should include a reference to national legislation. A new wording is proposed as follows: "In appropriate circumstances, the competent authority should prescribe general procedures for this collaboration, in conformity with national legislation."

Office commentary

The reference to self-employed persons was slightly reworded and left in the text of Article 6. Self-employed persons may be engaged by an employer on a temporary basis when their professional activity contributes to the completion of a particular task. Occupational accidents may be caused by inadequate coordination in the exchange of information and in the application of safety and health measures. Self-employed persons may be needed in this cooperation process in order to protect workers and prevent accidents and health hazards.

Reference to the competent authority was introduced to provide for flexibility, in line with the observations of the Government of *Japan*.

The Article as amended appears as Article 6 of the proposed Convention.

Article 7

In order to comply with the national policy referred to in Article 4, national laws and regulations or the competent authority shall provide, taking into account the size of the enterprise, that the employer shall:

(a) carry out appropriate risk assessments in relation to the safety and health of workers and, on the basis of these results, adopt preventive and protective measures to ensure that all agricultural activities, workplaces, machinery, equipment, tools and processes under the control of the employer are safe and comply with prescribed safety and health standards, under all conditions of their intended use; and

(b) ensure that adequate and appropriate training and comprehensible instructions on safety and health and any necessary guidance or supervision are provided to workers in agriculture, taking into account their level of education and differences in language.

Observations on Article 7

Belgium. CNT. The principle of substitution should be incorporated in the proposed Convention, in addition to the general principles of prevention and protection

already embodied in the instrument. This would require the employer to replace hazardous agents with less or non-hazardous agents, in accordance with section 5.I.2(d) of the Act of 4 August 1996 respecting the welfare of workers. Inherent risks associated with biological agents and the related preventive and protective measures should be taken into account, as is the case with chemical hazards.

Brazil. The Government, CNA and CONTAG agree with the proposed text.

Denmark. The Government does not consider that the obligations referred to in subparagraphs (a) and (b) should depend on the size of the enterprise, and the qualification "taking into account the size of the enterprise" should therefore be omitted. The Government furthermore suggests the inclusion of a new subparagraph (c) as follows: "ensure that safety and health representatives, taking into account the concrete circumstances, have sufficient time at their disposal to assume their duties in relation to safety at work".

Egypt. Agrees with the proposed text.

Estonia. Add to subparagraph (a), after the wording "in relation to the safety and health of workers and ...", the following words: "inform workers of risk factors present in the working environment, the results of risk assessments and the measures implemented to prevent damage to health ...". Add to subparagraph (b), after the wording "are provided to workers in agriculture" the following words: "and that they are trained to incorporate preventive measures into the performance of their activities".

Finland. The words "taking into account the size of the enterprise" should be omitted. According to European Union and Finnish legislation, the substantive content of occupational safety and health measures cannot depend on the size of the enterprise, although the procedures involved may be different.

Indonesia. APINDO. The wording "taking into account the size of the enterprise" is very important, since in developing countries most agricultural enterprises are very small businesses and should be protected. They need special programmes to cope with regulations, namely training and additional funds for the development and establishment of various infrastructures.

Japan. In subparagraph (a), delete the words "carry out appropriate risk assessments in relation to the safety and health of workers and, on the basis of these results". Risk assessment guidelines, such as an occupational safety and health management system (OSHMS), are now under preparation. It is not feasible to make risk assessment in the agricultural sector an obligation under the proposed Convention. No ILO Conventions on safety and health in other sectors provide for risk assessment.

Lebanon. In subparagraph (b), ensuring "adequate and appropriate training" may require a contribution from other bodies. Our question is: Which bodies might these be?

Morocco. Add a new subparagraph (c), as follows: "take the necessary measures to ensure that workers in agriculture undergo periodical medical examinations aimed at continuously monitoring their health status and the extent of their exposure to occupational hazards".

Poland. OPZZ. Agrees with the proposed text.

Switzerland. These provisions are too strict for most Swiss agricultural employers and would be beyond their means.

UPS. The reference to the size of the enterprises should be retained.

Office commentary

A minor drafting change was made to replace "enterprise" with "undertaking" for the sake of consistency with Article 1 and with the references to undertakings in other Articles.

In line with the comments of the Government of *Finland*, the substantive content of occupational safety and health measures cannot be based on the size of the enterprise but on a risk assessment, as referred to in Paragraphs 4 and 6 (new Paragraph 5) of the proposed Recommendation. However, the risk assessment procedures will vary according to the size of the undertaking and the nature of the activities carried out. A reference to the nature of the activities carried out in the undertaking has therefore been added to the text.

In response to the observations of the Government of *Japan*, in OSH practice, risk assessment is the essential first step in risk control. It concerns procedures based on the systematic use of available information to identify hazards[6] and to estimate risks[7] in order to determine the appropriate workplace precautions. In the simplest cases, risks can be identified by observation and by comparing the circumstances with the relevant information. In more complex cases, measurements may be necessary to identify risks. A final decision on risk control methods must take into account the relevant legal requirements which establish minimum levels of risk prevention or control within a framework of regulations, codes of practice or technical standards. Risk control should be understood as an obligation of means and not of results, as there is never a complete absence of hazards, and sometimes a residual risk may remain after protective measures have been taken. The basic risk control principles are listed in the new Paragraph 5 of the proposed Recommendation.

In response to the observations of the Governments of *Denmark* and *Estonia*, the rights and duties of workers are dealt with in Article 8, and information and training on preventive measures is implicit in subparagraph (b) of Article 7.

With regard to the observations of the Government of *Morocco*, the issue of health surveillance is dealt with in the new Paragraphs 3 and 4 of the proposed Recommendation.

The Office considers that it may be useful to incorporate in a new clause (c) in Article 7 a reference to the employers' role in the shared responsibility for the measures to be taken in case of imminent danger. This will allow for consistency with Article 4, paragraph (3), concerning the responsibility of the competent authority, and with Article 8, paragraph (1)(b), concerning the rights of workers. A reference to the measures taken by employers in response to an imminent danger would prevent abuses in the exercise of those rights. Such a subparagraph could

[6] *Hazard*: Potential source of physical injury or damage to the health of people, or damage to property or the environment.

[7] *Risk*: Combination of the probability and severity of occurrence of physical injury or damage to the health of people, or damage to property or the environment.

have the following wording: *take immediate steps to stop any operation where there is an imminent danger to safety and health, and evacuate workers, as appropriate*. This wording is similar to that found in Article 12(2) of the Safety and Health in Construction Convention, 1988 (No. 167). The matter may be left for discussion at the Conference.

The Article as amended appears as Article 7 of the proposed Convention.

Article 8

1. Workers in agriculture shall have the right:

(a) to be informed and consulted on safety and health matters including risks from new technologies, to select safety and health representatives or their representatives in safety and health committees and, through those representatives, to participate in workplace inspections; and

(b) to remove themselves from danger resulting from their work activity when they have reasonable justification to believe there is an imminent and serious risk to their safety and health; they shall inform their supervisor immediately. They shall not be disadvantaged as a result of these actions.

2. Workers in agriculture and their representatives shall have the duty to cooperate and comply with the prescribed safety and health measures to permit employers to comply with their own duties and responsibilities.

3. The procedures for the exercise of the rights and duties referred to in paragraphs 1 and 2 shall be established by national laws and regulations, the competent authority, collective agreements or other appropriate means.

Observations on Article 8

Belgium. Replace the phrase "They shall not be disadvantaged as a result of these actions" with "They shall not be penalized as a result of these actions" or "They shall not suffer any sanction as a result of these actions".

CNT. The phrase "to select safety and health representatives" in paragraph 1(a) should take into account the procedures for electing or designating workers' representatives prescribed by national legislation, and this should be expressed clearly. A new subparagraph (c) could be added to paragraph 1, as follows: "to benefit from adequate medical surveillance based on risks assessment".

Brazil. The Government, CNA and CONTAG agree with the proposed text.

Denmark. In paragraph 1, attention should be given to the fact that in Denmark this right "to select safety and health representatives ..." only covers enterprises with five or more employees; in enterprises with fewer than five employees, safety aspects are dealt with through personal contact between the employer, supervisor, if any, and other employees. If the provision does not leave it to the national authorities to fix a limit for the application of the right in question, the Danish Government proposes that subparagraph (a) should be rephrased as follows: "to be informed and consulted on safety and health matters including risks from new technologies, and, taking into account the size of the enterprise, to select safety and health representatives ...". As

regards smaller enterprises, it does not seem expedient to impose requirements regarding the election of safety and health representatives. In these cases, it ought to be sufficient that safety and health activities are dealt with through personal contact between the employer and employees.

Egypt. Agrees with the proposed text.

Finland. Insert "taking into account the size of the enterprise" in paragraph 1(a), which should then read as follows: "... to select safety and health representatives or, taking into account the size of the enterprise, their representatives in safety and health committees and, ...". According to the Act on the supervision of occupational safety and health, an occupational safety committee must be established at any workplace employing 20 or more regular workers.

SAK. A clause should be added to give workers the right to choose a joint or regional occupational safety delegate for several enterprises. Small agricultural workplaces should also have a person who represents the workers in matters of occupational safety.

Indonesia. APINDO. Strongly rejects the inclusion of the right of trade unions to appoint safety and health representatives; active participation of trade unions in the formulation of collective labour agreements is quite sufficient. Correct implementation of safety and health measures in the workplace should be supervised by local authorities.

Japan. Introduce a new paragraph 1 to replace paragraph 1(a) as follows: "Workers in agriculture shall have the right to be informed and consulted on safety and health matters ... and, through their representatives, to participate in workplace inspection or to express their opinions." Besides the right to participate in workplace inspections, workers should have other means of safeguarding their safety and health. Provisions that are too specific reduce the scope of application of the proposed Convention. The phrase "reasonable justification" appears to give workers too much discretionary power to remove themselves from danger. An objective decision is needed if this right is not to be abused, and measures to avert the risk should be based on an acknowledgement by employers and workers that there is an imminent and serious risk to workers' safety and health. It is therefore proposed that paragraph 1(b) should be replaced with a new paragraph 2, as follows: "When it is objectively judged by employers, in consultation with workers where appropriate, that there is an imminent and serious risk in the workplace, appropriate measures should be taken to avert the risk." Former paragraphs 2 and 3 should be renumbered accordingly.

Mauritius. MEF. Paragraph 1(b) may give rise to abuses.

Poland. OPZZ. Agrees with the proposed text. Introduction of national legislation on the basis of this Article would give workers in agriculture similar rights to those enjoyed by workers in other sectors. The situation of persons employed in agricultural production in Poland has deteriorated considerably owing to changes in land ownership.

South Africa. BSA. With regard to paragraph 1(a), it is questionable whether it would be feasible to select safety and health representatives in the case of small enterprises.

Spain. Paragraph 1(b) could be rewritten as follows: "if necessary, to interrupt their activity and leave the workplace when they have reasonable justification to be-

lieve there is an imminent and serious risk to their safety and health ...". Paragraph 2 could be rewritten as follows: "Workers in agriculture shall be required, as far as they are able to do so and through the implementation of the prescribed safety and health measures, to attend to their own safety and health at work and the safety and health of any other person who could be affected by activities resulting from their acts or omissions at work, in conformity with their occupational training and the employer's directives."

United Kingdom. Further clarification is needed on what form the "participation" of safety representatives would take.

Office commentary

As a result of a minor drafting change, subparagraph (a) in paragraph 1 has been divided into new subparagraphs (a) and (b), as the former subparagraph (a) dealt with two separate issues: access to information and the selection of safety representatives. The second part of subparagraph (a) has been amended in line with the comments of the Government of *Denmark*, to reflect the fact that national legislation in most countries provides for the establishment of safety and health committees taking into account the number of workers and size of the undertaking. A reference to the "application of safety and health measures" has been introduced instead of "workplace inspection" to clarify the text.

The Governments of *Japan* and *Spain* proposed new texts for the old subparagraph (b) (new subparagraph (c)). The Office has not amended the provisions in line with these proposals owing to the comments received on this Article, which revealed great differences in views, and leaves them for the Conference to consider if it so wishes.

The Article as amended appears as Article 8 of the proposed Convention.

Machinery safety and ergonomics

Article 9

1. National laws and regulations shall prescribe that machinery, equipment, including personal protective equipment, appliances and hand tools used in agriculture comply with national or other recognized safety and health standards and be appropriately installed, maintained and safeguarded.

2. The competent authority shall take measures to ensure that manufacturers, importers and suppliers comply with the standards referred to in paragraph 1 and provide adequate and appropriate information including hazard warning signs, in the official language of the importing country, to the users, and, on request, to the competent authority.

Observations on Article 9

Argentina. Although manufacturers are primarily responsible for the ergonomic standards of machinery and equipment, employers are also responsible. Before acquiring or using machinery or equipment they should demand quality certification according to national and/or international standards.

Austria. In the German version, the English word "safeguarded" is translated as "geschützt". It should be translated as "mit Schutzvorrichtungen versehen", since it is the workers, not the machinery, that are to be protected.

Belgium. The employer may also be a manufacturer of machinery, equipment or tools, and the instrument should take this possibility into account.

CNT. The commentary for this Article does not appear to be consistent with the text, which does not refer to "safety and health standards normally based on ergonomic principles".

Benin. Since many importing countries do not yet have established national structures or legislation in this area, paragraph 2 should also state that compliance with recognized safety and health standards is also required from users when choosing equipment.

Brazil. The Government, CNA and CONTAG agree with the proposed text.

Egypt. Agrees with the proposed text.

France. Manufacturers, importers and suppliers of machinery and equipment are required to comply with safety and health standards, and cannot sell, rent or exhibit machinery and equipment which does not comply with these standards. However, this responsibility also concerns employers, who should buy only equipment which conforms to such standards and maintain it accordingly. The proposed Convention could specify the role of both manufacturers and employers. Article 9 could be divided into two parts: the first would concern the obligation of manufacturers, importers and suppliers to comply with safety and health standards, while the second would concern the obligation of users (self-employed farmers and employers) to acquire only machines and equipment that conform to such standards and to maintain them.

Germany. The Government is in favour of a requirement for employers to provide machinery, equipment and personal protective equipment which comply with safety and health standards or whose safety has been ensured in some other way. German occupational safety and health laws and regulations place this requirement on the employer, since the German Occupational Safety and Health Act requires employers to take into consideration the state of the art in technology, occupational medicine and hygiene, as well as all other established ergonomic principles.

Israel. The word "users" is understood as referring, inter alia, to both employers and workers. As a result of this, and since there are situations where workers are not necessarily nationals of the country where they work, and/or are incapable of understanding or reading its official language, another paragraph (paragraph 3) should be added to emphasize employers' responsibility for providing workers with the information that manufacturers, importers and suppliers have to supply to them under the terms of paragraph 2. Although paragraph 1 of Article 6 of the proposed Convention and Paragraph 2 of the proposed Recommendation refer to the duty of employers and enterprises to ensure their workers' safety and health, the point should be specified again in the proposed new paragraph for the following reasons: (i) its importance to the safety and welfare of workers, (ii) the detailed description in Article 9 of the responsibilities of manufacturers, importers and suppliers; and (iii) the ambiguity created by the use of the word "users" in paragraph 2. The new paragraph 3 should be worded as follows: "National laws or regulations shall prescribe the duty of employers to reasonably en-

sure that their workers have received and understand the safety and health standard information supplied by manufacturers, importers and suppliers."

Japan. Modify paragraph 1 with the addition of "the competent authority", as follows: "National laws and regulations or the competent authority shall prescribe that ...". What must be ensured is the safety of agricultural workers. The possibility that "the competent authority" may prescribe for machinery safety and ergonomics should not be precluded.

Lebanon. Add the word "internationally" in the last line of paragraph 1 which will then read "... or other internationally recognized safety and health standards".

Poland. OPZZ. Legal provisions should be drafted and implemented, in particular, with regard to toxic chemicals which are widely used in agriculture and may affect the quality of agricultural produce, consumers' health and the environment.

South Africa. BSA. In paragraph 2, the provision which requires that information and warning signs be provided in the official language of the importing country could price some imports out of the market in certain countries. There are two problems in this regard. First, some countries have more than one official language, South Africa, with 11 languages, being a case in point. Secondly, a small country might have very limited imports, and this kind of requirement might result in extra effort and cost for manufacturers to make it worthwhile to export to a particularly small country. This could restrict imports of productivity-enhancing machinery and implements, and that in turn would hamper economic growth and development, particularly in countries with the greatest needs. It is consequently proposed that the paragraph be amended to the effect that appropriate information should be available in a commonly used language of the importing country.

Sri Lanka. LJEWU. Agrees with the proposed text.

Spain. The following wording is proposed for paragraph 2: "... and provide adequate, easily understood and appropriate information including, where necessary, hazard warning signs to the users, and, on request, to the competent authority".

Switzerland. USP. Although provisions on machinery safety are useful, they belong not in a safety and health Convention but in standards on technical installations. The relevant safety provisions on machinery safety are already contained in the Guarding of Machinery Convention, 1963 (No. 119).

Office commentary

Reference to the competent authority has been introduced in paragraph 1 to provide for flexibility in line with the comments of the Government of *Japan*. A new paragraph 3 has been drafted along the lines indicated by a majority of governments on the shared responsibility of employers in buying equipment and in providing information.

The Article as amended appears as Article 9 of the proposed Convention.

Article 10

National laws and regulations shall prescribe that agricultural machinery and equipment:

(a) must be used only for work for which they are designed, and in particular, must not be used for human transportation, unless designed or adapted so as to carry persons; and

(b) must be operated by trained and competent persons, in accordance with national law and practice.

Observations on Article 10

Belgium. The phrase in the French version of subparagraph (a) "ne doivent pas être utilisés" should be replaced with "ne peuvent pas être utilisés".

Benin. Subparagraph (a) should state that when any adaptation of agricultural machinery and equipment for the purpose of transportation is considered, the employer should be required to request the approval of the competent authority. Moreover, it should be mentioned that adapted agricultural machinery and equipment should only be authorized for agricultural activities or in agricultural settings.

Brazil. The Government, CNA and CONTAG agree with the proposed text.

Denmark. Agrees with the proposed text.

Egypt. Agrees with the proposed text.

Eritrea. These provisions are beyond the capacity of developing countries, and could discourage them from ratifying the proposed Convention. Therefore, a clause "progressively introduced" should be added in an appropriate place so as to exclude such constraints.

Ethiopia. Agrees with the proposed text of subparagraph (a).

Germany. The protection objective of this Article is fully supported. The text of the proposed Convention, however, clearly binds the legislator. In Germany, the use of work equipment is regulated in principle by the appropriate government ordinance, but in practice is usually governed by the accident prevention regulations of the insurance associations. The text should be formulated in a more flexible way so as to make it of wider application. It could, for example, be amended to read "Safety and health regulations should prescribe ..." or "The body of legislation concerned with safety and health should prescribe ...". Part II of the Convention (General provisions) could contain a provision corresponding to Article 5, paragraph 1, of the Safety and Health in Construction Convention, 1988 (No. 167), or Article 4, paragraph 2, of the Safety and Health in Mines Convention, 1995 (No. 176).

Japan. In subparagraph (b), the meaning of "competent persons" is not clear. Will it have the same meaning as in subparagraph (b) of Article 3 of the Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)?

Lebanon. In subparagraph (a) delete the phrase "and in particular", in order to confine the use of agricultural machinery and equipment to work for which they are designed and to prevent their use for human transportation, unless designed or adapted for that purpose. Their use for any other purposes should be absolutely prohibited.

Mauritius. MEF. These provisions pose a practical problem for the industry.

Niger. SYNTAC. Each machine should have a defined use which should be indicated in national legislation. Risk assessment at national level could prevent hazards by identifying dangerous uses of machinery.

Poland. OPZZ. See comments on Article 9.

South Africa. BSA. In subparagraph (a), the provisions regarding the transportation of people could have very severe financial implications and could consequently hamper agricultural activities in some parts of the world. If not changed, they would discourage ratification. BSA consequently proposes that the wording "unless designed or adapted so as to carry persons" be deleted and replaced with "unless they are suitable for the safe transportation of persons".

Tunisia. The amendment introduced by the Committee on Safety and Health in Agriculture (addition of the phrase "unless designed or adapted so as to carry persons" at the end of subparagraph (a)) and the deletion of the word "authorized" in subparagraph (b) are appropriate and create the necessary flexibility.

Ukraine. Given the large numbers of women and children working in agriculture and the fact that over one-third of all accidents occur when machinery and equipment are used or during transport, subparagraph (b) should provide that agricultural machinery must be operated only by persons who have reached the minimum age prescribed in national law.

United Kingdom. Further clarification is needed on what is meant by "designed or adapted".

Office commentary

Subparagraph (a) has been amended in response to the concerns expressed by several governments.

In response to the question of the Government of *Japan*, for the purpose of these standards the term "trained and competent persons" should be understood as persons possessing adequate qualifications, such as suitable training and sufficient knowledge, experience and skills, for the safe performance of a specific task. The competent authority may define appropriate criteria for the designation of such persons and may determine the duties to be assigned to them.

The Article as amended appears as Article 10 of the proposed Convention.

HANDLING AND TRANSPORT OF MATERIALS

Article 11

1. The competent authority, after consulting the representative organizations of employers and workers concerned, taking into consideration the views of the representative organizations of self-employed farmers concerned, as appropriate, shall establish safety and health requirements for the handling and transport of materials, particularly on manual handling. Such requirements shall be based on risk assessment, technical standards and medical opinion, taking account of all the relevant conditions under which the work is performed, in accordance with national law and practice.

2. Workers shall not be required or permitted to engage in the manual handling or transport of a load which by reason of its weight or nature is likely to jeopardize their safety or health.

Observations on Article 11

Belgium. CNT. In paragraph 1, change the wording "technical standards" to "technical and ergonomic standards".

Brazil. The Government, CNA and CONTAG agree with the proposed text.

Egypt. Agrees with the proposed text.

Lebanon. Paragraph 2 should be reformulated as follows: "Workers shall not be required or permitted to engage in the manual handling, transport or hauling of a load which by reason of its weight or nature constitutes a danger to their safety or health, according to laws and regulations".

Mauritius. The words "and chemical wastes" should be added after the word "materials".

Poland. OPZZ. See comments on Article 9.

Spain. Paragraph 2 is both restrictive and vague. It should be replaced with the following: "Employers shall adopt the technical and organizational measures needed to avoid the manual handling of loads, in particular through the use of mechanical equipment, either automatic or controlled by the worker. Where manual handling cannot be avoided, the employer should take organizational measures, use appropriate means or provide such means to workers to reduce the risks associated with manual handling. A prior risk assessment should be carried out, taking into consideration risk factors and their potential combined effects."

Sweden. Paragraph 1 cannot be applied to one-person and family undertakings in Sweden at present.

Switzerland. These provisions are excessive, and might imply, for example, that a law should be enacted establishing the maximum weight which an agricultural worker can lift.

Ukraine. This Article should provide that the maximum permissible weight of loads handled should meet the standards laid down in national law.

Office commentary

The reference to self-employed farmers has been deleted from the text of the Convention and transferred to the Recommendation. See the Office commentary in the General observations on self-employed farmers.

The Office has deleted the reference to national law and practice from the text to provide flexibility for the competent authority in the establishment of requirements, as many countries do not have legislation in place on the matter.

To achieve greater clarity, the Government of *Spain* proposed a new text for paragraph 2 along the following lines: "*Employers shall adopt the necessary technical and organizational measures to avoid the manual handling of loads, in particular through the use of mechanical equipment, either automatic or controlled by the worker. Where manual handling cannot be avoided, organizational measures or other appropriate means shall be applied to reduce the risks involved in manual handling, taking into account both the risk factors and their combined effects.*" The Office has not amended the provisions in line with this proposal, which is for the Conference to consider if it so wishes.

The Article as amended appears as Article 11 of the proposed Convention.

SOUND MANAGEMENT OF CHEMICALS

Article 12

The competent authority shall take measures, in accordance with national law and practice, to ensure that:

(a) there is an appropriate national system establishing specific criteria for the importation, classification, labelling and banning or restriction of chemicals used in agriculture;

(b) those who produce, import, provide, sell, transfer, store or dispose of chemicals used in agriculture, comply with national or other recognized safety and health standards, and provide adequate and appropriate information to the users in the appropriate official languages of the country and, on request, to the competent authority;

(c) a suitable system of collection and safe disposal, where appropriate, including recuperation and recycling of empty containers of chemicals is in place to avoid their use for other purposes and to eliminate or minimize the risks to safety and health and to the environment.

Observations on Article 12

Argentina. Subparagraph (c) should be modified as follows: "a suitable system of collection and safe disposal, including, where appropriate, the recuperation and recycling of empty containers of chemicals, according to the standards established by the competent authority". The reference here to "standards" established by the competent authority would avert the possibility of inappropriate recuperation and recycling.

Belgium. In subparagraph (c), replace the wording "a suitable system of collection and safe disposal, where appropriate, including recuperation and recycling of empty containers of chemicals is in place ..." with the following "a suitable system of collection, recycling or safe disposal of empty containers is in place ...".

CNT. With regard to subparagraph (b), the Council recalls its view, already expressed in its comments under question 22 of the questionnaire, that the instrument should include a provision requiring the use of a language used by the workers locally and of easily understood symbols. A reference to the environment should also be included, as follows: "recognized safety and health and environmental standards". The Council notes that in subparagraph (c) there is an apparent dichotomy between the terms "recycling" and "disposal"; the wording should be modified to avoid misinterpretation.

Benin. If the expression "selon le cas" in the French version of the proposed instrument refers to "un système adéquat de collecte et d'élimination sûre", it would be preferable to remove the comma between "élimination sûre" and "selon le cas".

Brazil. The Government, CNA and CONTAG agree with the proposed text.

Denmark. In subparagraph (c), the phrase "where appropriate" should be placed after "including", to cover "recuperation and recycling".

Egypt. Agrees with the proposed text.

Eritrea. The words "in agriculture" should be added on to the heading "Sound management of chemicals". In the recuperation and recycling of empty containers of chemicals, the competent authority should provide for the following: (i) a central storage area for the empty containers for collection; and (ii) coverage of the costs of

transporting empty containers for recycling. With regard to the disposal of obsolete pesticides, the manufacturing companies and suppliers should bear a proportion of the costs based on the quantity of their obsolete products in the respective country. This will contribute to a common concern on the part of producers, suppliers and users regarding the distribution of pesticides and force them to take a longer term view.

Ethiopia. In subparagraph (c), the phrase "where appropriate" should be placed after "including", so that it refers to "recuperation and recycling".

Finland. In subparagraph (c), the words "where appropriate, including recuperation and recycling of empty containers of chemicals" and "and to the environment" should be omitted. It is not expedient to include general rules and regulations on environmental protection in a Convention concerning occupational safety and health in agriculture.

SAK. Supports the text proposed by the Office.

France. Modify the text of subparagraph (c) as follows: "a suitable system of collection and safe disposal, including, where appropriate, the recuperation and recycling of empty containers of chemicals ...".

Germany. Safe disposal should be carried out without restrictions. The text proposed by the Office in subparagraph (c) of the proposed Convention should therefore be retained.

Israel. See our comments on Article 9, which also apply to Article 12. A new subparagraph (c) should be added, as follows: "employers shall be responsible for reasonably ensuring that their workers have received and understand the information supplied under Article 12(b)". The current subparagraph (c) should become subparagraph (d) and redrafted as follows: "a suitable system of collection and safe disposal, which would include, where appropriate, recuperation and recycling of empty containers of chemicals, is in place, to avoid ...". Our suggestion is based on the assumption that the terms "a suitable system" and "where appropriate" introduce a degree of flexibility into the subparagraph.

Japan. Agrees with the provisions of subparagraph (c). We believe that "a suitable system of collection and safe disposal of empty containers" should be ensured and that such a system should not be restricted to "recuperation and recycling of empty containers". Therefore, the words "where appropriate" could be placed after the word "including".

Lebanon. In subparagraph (a) the word "exportation" should be inserted after the word "importation", as the conditions in question apply to both exportation and importation of chemicals used in agriculture. In subparagraph (b), add the word "internationally" before "recognized safety and health standards ...". Modify the text of subparagraph (c) to read "a suitable and safe system of collection and disposal, ... and to eliminate the risks to safety, health and environment."

Mauritius. In subparagraph (c), the words "of chemical wastes and obsolete chemicals" should be added after the word "disposal".

Niger. SYNTAC. Training on the recuperation and recycling of empty containers should be included in the provisions of subparagraph (c), to prevent subsequent hazardous use.

Norway. The Government and the LO support the measures proposed.

NHO. The proposed measures are also covered by the Chemicals Convention, 1990 (No. 170), and are therefore superfluous here. The Preamble of the proposed Convention contains a reference to Convention No. 170 and this should be enough.

Poland. OPZZ. See comments on Article 9.

Spain. The contents of Articles 12 and 13 are too specific and should be transferred to the proposed Recommendation. If a reference to the sound management of chemicals is to be included in the proposed Convention, it should be more general and read as follows: "Employers shall ensure that there exist preventive and protective measures for the use of chemicals in agricultural enterprises or undertakings." As regards subparagraph (b), the reference to "other recognized safety and health standards" is superfluous and could be deleted. Alternatively the standards to which reference is made could be specified. Moreover, in subparagraph (b) it would be sufficient to stipulate that adequate and easily understood information should be provided to the users and, on request, to the competent authority.

Sri Lanka. LJEWU. Manufacturers may comply with warning notices, etc., on their bulk export productions, but the warnings must be passed down and necessary precautions taken when the chemicals are actually used in agriculture, to ensure that those handling and using these chemicals are adequately briefed about the toxic contents and their potential danger to users.

Sweden. Subparagraph (c) should read as follows: "a suitable system of collection and safe disposal, including, where appropriate, recuperation and recycling of empty containers ...".

Switzerland. USP. The measures referred to here belong in a Convention on chemicals or environmental protection, such as the Chemicals Convention, 1990 (No. 170), which has not been ratified by Switzerland, not in this proposed Convention.

Tunisia. In subparagraph (c), place the words "where appropriate" after the word "including" to cover all the points of the subparagraph.

United Kingdom. The words "where appropriate" should be placed after the word "including".

Office commentary

Minor drafting changes have been made to subparagraph (a). Subparagraph (c) has been modified to achieve greater clarity taking into consideration the different views and commentaries. In the view of the Office the new wording of subparagraph (c) no longer requires the phrase "where appropriate".

In response to the observation of the Government of *Finland*, the reference to the environment is within the ILO's mandate in as far as it concerns those work-related activities that can have an impact on the general environment. Similar references are found in the Prevention of Major Industrial Accidents Convention, 1993 (No. 174), and the Chemicals Convention, 1990 (No. 170). This approach is also consistent with the International Programme on Chemical Safety (IPCS) and the Inter-Organization Programme for the Sound Management of Chemicals (IOMC), in which the ILO, WHO, UNEP, UNITAR, FAO, UNIDO and OECD all participate.

The Article as amended appears as Article 12 of the proposed Convention.

Article 13

1. National laws and regulations or the competent authority shall ensure that there are preventive and protective measures for the use of chemicals at the enterprise level.

2. These measures shall cover:

(a) the preparation, handling, application, storage and transportation of chemicals;

(b) the release of chemicals resulting from agricultural activities;

(c) the maintenance, repair and cleaning of equipment and containers for chemicals; and

(d) the disposal of empty containers and the treatment and disposal of chemical wastes.

Observations on Article 13

Brazil. The Government, CNA and CONTAG agree with the proposed text.

Egypt. Agrees with the proposed text.

Finland. Paragraph 2(b) should be deleted. It is not expedient to include general rules and regulations on environmental protection in a Convention concerning occupational safety and health in agriculture.

SAK. Agrees with the proposed text.

France. Paragraph 2(b) does not define what is understood by the word "release", which relates to environmental risk, whereas the proposed Convention concerns human health protection. The term "application" would be more appropriate.

Germany. The scope of Articles 12 and 13 is restricted to the handling of chemicals. Biological risks, which play a significant role in agriculture, are not taken into consideration, even though they are the cause of a number of forms of extrinsic allergic alveolitis, which are recognized occupational diseases. The most widely known of these allergic illnesses is "farmer's lung" seen in agricultural workers, which is caused by moulds and bacteria found in hay, straw and other plant materials. In animal farming, biological agents can cause zoonoses, including salmonellosis, toxoplasmosis, Q fever, Newcastle disease, erysipelas, animal smallpox, and various mycoses and parasitoses. The European Union took this into consideration by including agriculture in its Directive on the protection of workers from risks related to exposure to biological agents at work (2000/54/EC). We propose the following text for inclusion in the proposed Convention:

"Protection against biological risks

Article 13(a)

1. National laws and regulations or the competent authority shall ensure that there are preventive and protective measures against biological risks in agriculture at the enterprise level.

2. These measures shall cover:

(a) the avoidance or reduction of biological risks;

(b) the chain of infection from animals to humans;

(c) hygiene at the workplace."

Japan. In paragraph 2, delete subparagraph (d) as its content is covered by subparagraphs (b) and (c).

Mauritius. In paragraph 1, the words "and handling of chemical wastes" should be added after the word "chemicals". In paragraph 2, the word "cover" should be replaced with "include". In subparagraph (d) of the same paragraph, "the treatment and disposal of chemical wastes" should be replaced with "the handling, storage and transportation of chemical wastes and obsolete chemicals". Add a new subparagraph (e), to read as follows: "the treatment, as appropriate, and disposal of chemical wastes and effluents."

Niger. SYNTAC. For subparagraph (d), see comments on Article 12, subparagraph (c).

Poland. OPZZ. See comments on Article 9.

Portugal. In paragraph 2(a), include the wording "..., sale to consumers," between the words "storage" and "and transportation of chemicals".

Slovakia. In paragraph 2(d), the words "and of packing material" should be inserted after the words "of empty containers".

Spain. See comments on Article 12. Replace the introductory clause of paragraph 2 with the following: "These preventive and protective measures shall cover:". The purpose of this would be to highlight the fact that these preventive measures concern the protection of workers' health, rather than an obligation on the part of employers to develop an environmental policy [see paragraph 2(d)].

Switzerland. USP. See our comment on Article 12.

Office commentary

In line with comments from some governments and for the sake of consistency with Article 12, minor drafting changes have been made to introduce a reference to the management of chemical waste and obsolete chemicals.

"Enterprise" has been replaced with "undertaking" for consistency with Article 1 and the references to undertakings in other Articles.

With regard to the question raised by the Government of *Slovakia*, "container" refers to any type of material used to contain a chemical.

As regards the observation of the Government of *France*, the appropriate translation of the term "release of chemicals" in French is "émission ou dégagement de produits chimiques".

The observations of the Government of *Germany* are reflected in a new Article 14.

The Article as amended appears as Article 13 of the proposed Convention.

AGRICULTURAL FACILITIES

Article 14

National laws and regulations shall prescribe safety and health requirements for the construction, maintenance or repairing of agricultural facilities.

Observations on Article 14

Barbados. The wording should be re-examined so as to make clear whether all facilities mentioned should be provided by the employer, at no cost to the worker.

BEC. This provision is totally unacceptable to the employers, especially in view of the definition of "agricultural facilities" in Report VI (2).

Belgium. The expression "agricultural facilities" is imprecise and should be replaced with "agricultural buildings and equipment".

CNT. This provision should be understood as being without prejudice to the application of general national legislation on safety and health in construction.

Brazil. Add the wording "taking into account the relevant conditions under which these activities are carried out" at the end of the Article.

CNA. Differences in the economic capacity of rural producers need to be taken into consideration.

Egypt. Agrees with the proposed text.

Finland. FAE, MTK, TT. Delete this Article. The general rules and regulations on occupational safety and health apply to the construction, repair and maintenance of agricultural facilities, and there is thus no need for separate rules and regulations on occupational safety and health concerning construction of agricultural facilities. Should the Article not be omitted, the FAE proposes that the text be revised as follows: "The construction, maintenance and repair of agricultural facilities should be in conformity with national laws, regulations and requirements".

Germany. Supports the inclusion of this Article in the proposed Convention.

Indonesia. APINDO. The wording should be re-examined so as to make clear whether all facilities mentioned should be provided by the employer, at no cost to the worker.

Japan. Insert the phrase "the competent authority" as follows: "National laws and regulations or the competent authority shall prescribe ...".

Lesotho. ALE. This provision is highly impractical and should be transferred to the proposed Recommendation. A farmer should not be covered by national laws and regulations when putting up a structure on his farm, no matter how temporary. In many developing countries, only urban dwellings for human habitation are regulated, because there are no structures or facilities within governments to enforce regulations in non-urban areas, nor are these desirable.

Norway. NHO. The debate at the International Labour Conference in June 2000 brought to light vehement opposition among employers to Article 14, especially with regard to the definition contained in Report VI (2), which is too broad. Attention is consequently drawn to the subamendment to D.123 proposed by the Employers' group at the Conference in June 2000 which reads: "The construction, maintenance and repairing of agricultural facilities should be in conformity with national laws, regulations and requirements"; this would be acceptable to most countries.

South Africa. BSA. This Article is totally inappropriate for an international labour instrument on safety and health in agriculture. It is normal practice in many countries for local government to be responsible for establishing building/construction by-laws and regulations. A requirement that this has to be done through national laws and regu-

lations will therefore perforce discourage ratification, and the reference to prescriptive national laws and regulations should therefore be deleted. BSA believes that it would be acceptable to specify that facilities should comply with national or other recognized safety and health standards.

Spain. Transfer Article 14 to the proposed Recommendation.

Switzerland. UPS. This Article is unacceptable as the definition of agricultural facilities given in the ILO Report VI (2) is too broad. The text should be limited by a reference to the national law and regulations.

United States. USCIB. This Article is unacceptable, especially in view of the definition of "agricultural facilities" given in Report VI (2). The requirement is inappropriate and would create unnecessary bureaucracy and costs for the farmer.

Office commentary

This Article and its heading were reworded for consistency with national regulations on construction.

Former Article 14 as amended appears as Article 15 of the proposed Convention.

Animal handling

Article 15

National laws and regulations shall provide that animal handling activities and animal husbandry areas and stalls comply with national or other recognized safety and health standards.

Observations on Article 15

Brazil. Add the wording "taking into account relevant conditions under which these activities are carried out" at the end of the Article.

CNA. The differences in the economic capacity of rural producers should be taken into account.

Egypt. Agrees with the proposed text.

Lebanon. The term "animal handling activities" should be clarified, as the Arabic text might not reflect the meaning intended. It is also proposed that the words "and livestock breeding" should be added after the expression "animal husbandry", so as to bring Article 15 into conformity with subparagraph (a) of Article 1.

Lesotho. ALE. See our comments on Article 14.

Mauritius. Add the word "international" after "recognized".

Spain. Transfer Article 15 to the proposed Recommendation.

Office commentary

In line with the concern expressed by Member States of the European Union during the Conference, and with the proposal of the Government of *Germany* for a new

Article after Article 13, reference to protection against biological risks has been introduced in former Article 15. See also the modifications to Paragraph 11 of the proposed Recommendation (new Paragraph 8) on animal handling.

Former Article 15 as amended appears as Article 14 of the proposed Convention.

IV. Other provisions

Young workers

Article 16

1. The minimum age for assignment to work in agriculture which, by its nature or the circumstances in which it is carried out, is likely to harm the safety and health of young persons shall not be less than 18 years.

2. The types of employment or work to which paragraph 1 applies shall be determined by national laws and regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration the views of the representative organizations of self-employed farmers concerned, as appropriate.

3. Notwithstanding paragraph 1, national laws or regulations or the competent authority may, after consultation with the organizations of employers and workers concerned, taking into consideration the views of the representative organizations of self-employed farmers concerned, as appropriate, authorize the performance of work referred to in that paragraph as from 16 years of age on condition that appropriate prior training is given and the safety and health of the young workers are fully protected.

Observations on Article 16

Argentina. As regards paragraph 1, Argentinian legislation does not prohibit the employment of minors in agriculture, and a change in legislation would be required. With regard to paragraph 2, no change is proposed. In paragraph 3, there should be no exceptions.

Austria. The provisions concerning young workers and women workers in Articles 16 and 18 are primarily declarative in intention, and serve to highlight the special importance of these issues. There are already a number of Conventions dealing specifically with those groups of workers. However, the normative significance of these provisions should not be underestimated, since States that have not, for example, ratified the other Conventions will have general minimum standards to refer to, at least in the agricultural sector.

Belgium. The word "protected" at the end of paragraph 3 ("... the safety and health of young workers are fully protected") could be replaced with "safeguarded or preserved".

Brazil. Delete paragraph 3.

Egypt. The minimum age for assignment to work in agriculture should not be less than 14 years of age. Prior training of at least two years should be provided as from 14 years of age.

Finland. The following new paragraph 4 should be added: "[The Convention does not apply to:] work done by children and young persons in schools for general vocational or technical education or other training institutions, or to work done by persons of at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with organizations of employers and workers concerned, where such exist, and is an integral part of: (a) a course of education or training for which a school or training institution is primarily responsible; (b) a programme of training mainly or entirely in an undertaking, which programme has been approved by a competent authority; or (c) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training." This would be in accordance with the initiative presented by the representatives of the Governments of the European Union countries during the first discussion of the Convention at the 88th International Labour Conference (see *Provisional Record* No. 24, point 161).

SAK. Include a clarification to the effect that hazardous work should be prohibited for persons below the age of 18 years.

France. Paragraph 1 fixes the minimum age for assignment to work in agriculture at 18 years and paragraph 3 authorizes such work from 16 years of age on condition that appropriate prior training is given and that the safety and health of the young workers are protected. This wording could restrict young persons' training because they might be exposed to dangerous machinery during the instruction. Paragraph 3 should be amended to clarify that they can use potentially dangerous machinery in the context of properly supervised professional training at an educational centre, if this is necessary for their training.

Israel. The restrictions concerning the age of young workers are unnecessarily strict. Although young workers should certainly be restricted in work with chemicals such as pesticides or with dangerous machinery, there are numerous tasks in agriculture that can be performed by young workers. In our country it is permitted by law for a young worker of 15 years of age to do non-hazardous work, although in practice this is the exception rather than the rule, as compulsory education does not end before 16 years of age. Furthermore, a young person of 14 years of age is allowed to work in certain occupations during summer vacations. The Government will have difficulties in ratifying the Convention if the proposed wording is retained.

Kuwait. Our national legislation defines a "young person" as every person, male or female, between the ages of 14 and 18 years. As the proposed Convention stipulates that the minimum age for assignment to work in agriculture shall not be less than 18 years, it is suggested that the ILO should ask member States to introduce amendments to their national minimum age legislation in keeping with the proposed Convention.

Mauritius. The words "appropriate prior training is given and the safety and health of the young workers are fully protected" at the end of paragraph 3 should be replaced with the wording "the young workers receive appropriate prior training, work under close supervision for at least one year, and are protected as far as safety and health are concerned".

Niger. SYNTAC. The minimum age, work requirements and efforts to provide training for young workers need to be revised in Niger.

Norway. Paragraph 1 sets a minimum age of 18 years for persons assigned to dangerous work. In Norway this is covered by the "Regulations on Work by Children and Young People". However, young people between the ages of 15 and 18 years who are not obliged to attend school under the provisions of the Basic Schooling Act are permitted to perform dangerous work when such work is performed as part of their training at school or when they are on an apprenticeship contract. This exception from the prohibition against assigning persons below the age of 18 to dangerous work applies throughout the EU/EEA by virtue of Council Directive 94/33 EEC on the protection of young people at work. Paragraph 3 opens the way for hazardous work to be performed from the age of 16 years onwards, subject to certain conditions, including the provision of appropriate prior training. It must, for example, be possible to allow persons who have reached the age of 15 years to drive a tractor in the context of training. This is permitted in Norway.

Portugal. Insert a new sentence at the end of paragraph 1 to read: "An exception can be made with regard to practical training in agriculture at the secondary level of formal education, or in the context of vocational training of young people, where the minimum age should not be less than 16 years."

South Africa. BSA. Paragraph 1 is totally superfluous, since the safety and health of young people are adequately covered by the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182). The paragraph should therefore be deleted.

Sweden. This Article implies stricter requirements than those indicated in Sweden's national law, which allows minors who are below the age of 16 years but attain that age during the calendar year and have completed their compulsory schooling to be engaged for work as employees and for work experience, subject to certain conditions (e.g. in connection with education/training or after the minor has completed vocational training for the task in question).

Switzerland. From the point of view of rationality, coherence and legal security, the exception provided in paragraph 3 ("... authorize the performance of work referred to in that paragraph as from 16 years of age ...") should be transferred to the Recommendation.

USP. The employment of young persons below the age of 18 years in fact concerns only agricultural apprenticeships. This should still be possible under the provisions contained in paragraphs 1 and 2. The minimum age of 16 years could pose a problem, since some apprentices in vocational training or young people performing holiday jobs on farms ("Landdienst") are under 16 years of age. In order not to jeopardize these very good opportunities for young people to learn about agriculture, the end of paragraph 3 could be modified as follows: "... authorize the performance of work referred to in that paragraph for young persons under 18 years of age on condition that appropriate prior training is given and the safety and health of the young persons concerned are fully protected".

Thailand. Where possible, the minimum age of young workers authorized to perform work, on condition that appropriate prior training is given and their safety and health are fully protected in accordance with this Article, should be changed from 16 years to 15 years.

United Kingdom. Further text should be introduced along the lines of Article 7 of the Minimum Age Convention, 1973 (No. 138).

Office commentary

In response to the commentaries of the Governments of *Denmark, Finland, France, Norway, Portugal, Sweden* and *United Kingdom* concerning apprenticeships, the Office would like to recall that each of the provisions of the Minimum Age Convention, 1973 (No. 138), need to be seen in the light of the aims of the Convention and cannot be conceived in isolation. Members are invited to examine Article 6 of Convention No. 138 where it is stated clearly that the Convention does not apply to certain forms of apprenticeship. Reference to Convention No. 138 in the Preamble and in paragraphs 2 and 3 of Article 16 provides for flexibility in the application of the measures.

See also the Office commentary in the General observations on self-employed farmers.

The Article as amended appears as Article 16 of the proposed Convention.

Temporary and seasonal workers

Article 17

Measures shall be taken to ensure that temporary and seasonal workers receive the same safety and health protection as that accorded to comparable full-time workers in agriculture.

Observations on Article 17

Brazil. The wording should be changed, as follows: "Measures shall be taken to ensure that workers employed on seasonal or temporary activities receive the same safety and health protection as that accorded to other workers in agriculture." The expression "seasonal or temporary" qualifies activities, not workers.

Egypt. Agrees with the proposed text.

Kuwait. The proposed Convention should refer to the need to ensure adequate protection of the rights of temporary and seasonal workers, in accordance with national legislation in each member State.

Lebanon. It is suggested to add the following expression at the end of the Article: "... according to the laws and regulations in force".

Office commentary

The Article without amendments appears as Article 17 of the proposed Convention.

Women workers

Article 18

Measures shall be taken to ensure that the special needs of women agricultural workers are taken into account, especially in relation to pregnancy, breastfeeding and reproductive health.

Observations on Article 18

Austria. See our comments on Article 16.

Barbados. BEC. Serious concern exists over the inclusion of this Article as this is the domain of maternity protection and it is difficult to envisage what agricultural employers would be expected to do in this regard. This wording should be deleted or transferred to the Recommendation.

Brazil. The Government, CNA and CONTAG agree with the proposed text.

Cyprus. A similar Article should be added to cover the "reproductive health" of male workers, since this does not only concern female workers.

Egypt. This Article is basically positive. However, it should contain some procedural details such as those contained in Chapter III of Egyptian Law No. 137 of 1981 concerning the employment of women.

Eritrea. Without prejudice to the provisions of Article 18, a new paragraph should be added, automatically exempting pregnant and breastfeeding women from dealing directly with chemicals and any work related to chemicals.

Estonia. The Article needs some clarification with regard to the special needs of women agricultural workers. More precise explanation on the meaning of the content should be added, including the main risk factors such as those related to ergonomic and work organization.

Indonesia. APINDO. This Article should be deleted.

Japan. Delete the word "especially" from the text. The term "special needs of women agricultural workers" has a broad meaning and what is included in "special needs" besides those explicitly mentioned in this Article is not clear. The "special needs" should have the restrictive meaning of "pregnancy", "breastfeeding" and "reproductive health".

NIKKEIREN. "The special needs of women agricultural workers" referred to here are unspecified and unclear. The meaning of this phrase should be spelled out and the entire paragraph should be moved to the proposed Recommendation.

Lebanon. It is understood that women agricultural workers have special needs other than those of women workers in other sectors. What are these needs, except for those related to pregnancy, breastfeeding and reproductive health? Furthermore, if these special needs of women agricultural workers are taken into account, will this not constitute discrimination in employment and occupation under the terms of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) against women working in other sectors? It is proposed that the Article be redrafted as follows: "Measures shall be taken to ensure that the special needs of women agricultural workers are taken into account during pregnancy, as well as those arising from pregnancy and its consequences."

Lesotho. ALE. The problem here is that ALE does not know what this is all about. To which measures is this Article referring? ALE feels that this Article belongs in the proposed Recommendation.

Norway. The Government and LO support the proposed texts.

NHO. This area is covered by the new Maternity Protection Convention, 2000 (No. 183). It is suggested that, as an alternative, the Preamble to the proposed Convention might include a reference to Convention No. 183.

South Africa. BSA. Maternity protection is covered by the Maternity Protection Convention, 2000 (No. 183), and there is consequently no need to deal with maternity issues in the proposed instrument. There is no point whatever in new ILO instruments trying to duplicate the provisions of instruments that have already been adopted. BSA recommends strongly that the reference to pregnancy, breastfeeding and reproductive health should be deleted.

Spain. This Article should only apply to women workers during pregnancy and periods of breastfeeding.

Switzerland. The Article should be redrafted. The term "reproductive health" is not satisfactory. Moreover, the text does not give concrete provisions about particular conditions applying to women in agriculture.

UPS and USP. These provisions are the domain of maternity protection covered by the new Maternity Protection Convention, 2000 (No. 183). The Article should be deleted.

United States. USCIB. These provisions on women workers are not appropriate to the proposed Convention. This covers matters addressed in various ILO maternity protection Conventions. It is difficult to envision what agricultural employers would be expected to do in this regard, as special facilities are simply not plausible in a field and frequent breaks are not possible during harvesting, especially of perishable crops. Furthermore, it would not be conducive to the health and welfare of infants to bring them into the field. Pregnancy, breastfeeding and reproductive health are not found in other ILO Conventions related to any other sector or industry.

Office commentary

This Article and its heading were reworded to circumscribe its scope and for consistency with national regulations on maternity protection. See also Paragraph 4(3) and new Paragraph 11 of the proposed Recommendation.

The Article as amended appears as Article 18 of the proposed Convention.

WELFARE AND ACCOMMODATION FACILITIES

Article 19

National laws and regulations shall prescribe, after consultation with the representative organizations of employers and workers concerned, taking into consideration the views of the representative organizations of self-employed farmers concerned, as appropriate:

(a) the provision of adequate welfare facilities at no cost to the worker; and

(b) the appropriate accommodation for workers who are required by the nature of the work to live temporarily or permanently in the undertaking.

Observations on Article 19

Belgium. Subparagraph (a) states that the provision of adequate welfare facilities should be done "at no cost to the worker", but does not mention the possible cost of "appropriate accommodation".

Brazil. The Government, CNA and CONTAG agree with the text of subparagraph (a). The Government and CONTAG agree with the text of subparagraph (b).

The CNA considers that, in subparagraph (b), the number of workers and the size of the enterprise should be taken into consideration when providing for welfare facilities and accommodation. Separate sanitary facilities for men and women and catering facilities should be provided only for enterprises with more than 100 workers on the payroll.

Egypt. Agrees with the proposed text.

France. The Government considers that welfare facilities should be provided at no cost to the worker, and that accommodation, depending on the contract, could be either free or paid. If it is free, there is a great risk that the conditions of hygiene and comfort of the accommodation will be inadequate. Therefore, in certain cases it is better for workers to pay for their accommodation. A clear definition of "welfare facilities" is needed: does the term cover only sanitation facilities or something else? As this measure does not concern self-employed farmers, the wording "taking into consideration the views of the representative organizations of self-employed farmers concerned, as appropriate" should be deleted.

Germany. The protective objective of this provision should be supported if there is reason to expect that appropriate accommodation may not be available to the worker. However, the provision of appropriate accommodation should not be prescribed by national laws and regulations since, in Germany, this area normally falls within the private domain. Therefore, it is proposed that the subject-matter of subparagraph (b) should not be prescribed by national laws and regulations.

Japan. Modify subparagraph (a) as follows: "the provision of appropriate welfare facilities at no cost to the worker". It is not certain that member States are necessarily in a position to comply with a legal requirement to provide "adequate facilities".

Lebanon. It is suggested to add the following expression "in accordance with national circumstances" after the expression "national laws and regulations shall prescribe".

Mauritius. MEF. These provisions will present many practical problems in their implementation.

South Africa. BSA. In subparagraph (a), the reference to "adequate welfare facilities" is vague and clarification is required regarding the definition of "adequate". This clarification would determine whether or not the proposed provision of welfare facilities at no cost to the worker is feasible. It should be recognized that the cost burden on the employer could impact negatively on the ability of poorer and smaller farmers to compete, and could even jeopardize food production in some countries. Depending on the clarification, this provision might be expected to discourage ratification.

Spain. The competent authority should ensure that agricultural workers who live far from work have access to adequate accommodation and canteens, to allow them to rest and eat in safe and healthy conditions.

Tunisia. It is important to highlight that the nature of the welfare and accommodation facilities will depend on the financial resources of agricultural enterprises.

Office commentary

With regard to the observation of the Government of *Brazil* and the concerns expressed in other replies, a reference to the size of the enterprise was not included, as a restriction of the scope of the provisions based on the size of the undertaking and the number of workers has already been dealt with by the changes in Articles 1, 3 and 4 of the proposed Convention (see the Office commentary on those Articles).

A reference to the competent authority has been introduced in paragraph 1 to provide for flexibility, together with the reference to a consultation process. Access to adequate accommodation concerns only those workers who have to live in the undertaking temporarily or permanently owing to the nature of their work. In most cases, this requirement is related to the size of the undertaking and the number of workers and concerns mainly temporary work on big plantations in developing countries. The term "at no cost to the worker" applies to welfare facilities. While some of the replies suggested the deletion from subparagraph (a) of the phrase "at no cost to the worker", the Office prefers to leave it to the Conference to discuss this proposal if it so wishes.

The reference to self-employed farmers has been deleted from the text of the Article.

The Article as amended appears as Article 19 of the proposed Convention.

Insurance against occupational injuries and sickness

Article 20

1. Workers in agriculture shall be covered by a scheme of compulsory insurance against occupational injuries and sickness, invalidity and other health risks, providing protection that is at least equivalent to that enjoyed by workers in other sectors.

2. Such a scheme may either be part of a national scheme or take any other appropriate form consistent with national laws and practice.

3. Where economic, social and administrative conditions do not permit the inclusion in such a scheme of self-employed farmers and their families, including persons of small means working on their own account in agriculture, they shall be covered by a special insurance scheme and measures shall be taken for the progressive extension of coverage to the level provided for in paragraph 1.

Observations on Article 20

Barbados. BEC. The entire paragraph concerning compulsory insurance against occupational injuries and sickness is a cause of great concern to the employers and would be a major obstacle to ratification. It should be deleted or transferred to the Recommendation.

Brazil. The Government, CNA and CONTAG agree with the proposed text.

Denmark. The Government proposes the following new wording for paragraph 3: "Where economic, social and administrative conditions do not permit the inclusion in

such a scheme of self-employed farmers and their families, including persons of small means working on their own account in agriculture, they shall be covered by a special voluntary insurance scheme." The wording "measures shall be taken for the progressive extension of coverage to the level provided for in paragraph 1" could be included in the Recommendation on the grounds that insurance coverage of self-employed persons should always be based on voluntary schemes.

Egypt. Agrees with the proposed text.

Eritrea. These provisions are beyond the means of developing countries and could deter them from ratifying the proposed Convention. The phrase "progressively introduced" should therefore be added at the appropriate place.

Estonia. In paragraph 1, after the words "by a scheme of compulsory insurance" add the following: "or injury benefit ...". Replace the term "sickness" with the term "diseases" used elsewhere in this context by the International Labour Organization, including in the proposed Recommendation.

Indonesia. APINDO. Delete the reference to self-employed farmers in paragraph 3.

Japan. Each member State is assumed to have its own scheme of insurance against occupational injuries and sickness. In this sense, it is useful to have the provisions of paragraph 3. However, a compulsory insurance scheme should not necessarily cover all agricultural households including those of very small-scale farmers or those who do not bear the responsibility as employers for accident compensation because they do not employ workers (self-employed farm households and those managed by family members only). The minimum requirements for the insurance scheme should be left to the discretion of each member State, and the word "compulsory" should therefore be deleted from paragraph 1. Paragraph 3 should be modified to read as follows: "Where economic, social and administrative conditions do not permit ... own account in agriculture, measures shall be taken, where possible, to ensure that they are covered by a special insurance scheme in accordance with national laws and regulations", i.e. delete the words "and measures shall be taken for the progressive extension of coverage to the level provided for in paragraph 1".

NIKKEIREN. The scheme of insurance against occupational injuries and sickness should be in accordance with national law and practice. Inclusion of this provision in the proposed Convention will be an obstacle to its ratification, and the entire paragraph should be deleted.

Kuwait. It is suggested that this matter should be regulated in accordance with national procedures and practices.

Lebanon. The words "in accordance with laws and regulations in force" should be added at the end of paragraph 1. In paragraph 3, the phrase "taking into account the national circumstances of each member State" should be added after "by a special insurance scheme".

Lesotho. ALE. It is acknowledged that workers in agriculture should have similar protection to that enjoyed by workers in other sectors, but it must also be recognized that conditions are by no means the same. This provision should therefore be transferred to the proposed Recommendation.

Niger. SYNTAC. Agriculture remains part of the informal sector in Niger. Regulation would require restructuring of the sector involving the establishment of an adequate insurance scheme, in accordance with national circumstances.

Norway. The following part of paragraph 3 should be deleted: "and measures shall be taken for the progressive extension of coverage to the level provided for in paragraph 1". In Norway some disparities between insurance schemes for self-employed persons and employed workers will need to be maintained.

Slovakia. In paragraph 3, the phrase "including persons of small means working on their own account in agriculture" is not clear. Clarification is needed as to whether this refers to workers who are paid in kind, for example in the form of meals, or to owners of gardens and private plots or small fields cultivated on a subsistence basis. Care should be taken to ensure that persons exempted from the terms of the proposed Convention by Article 2 are not included in this group.

South Africa. BSA. It is totally unrealistic to include an Article requiring all countries to establish compulsory insurance for agricultural workers. In fact, it smacks of a non-tariff barrier that would impact particularly severely on the less developed and poorer countries. It would undoubtedly discourage ratification of the proposed Convention, since it would simply make the instrument inapplicable. This Article should therefore be deleted.

Sri Lanka. LJEWU. While the protection provided by this Article represents an ideal to aim for, self-employed farmers may face problems as a result of the proposed Convention. This is especially the case with the agricultural workers of our own country, who are scattered throughout the rural areas and not properly organized.

Switzerland. Compulsory insurance against occupational injuries and sickness for waged workers already exists in Switzerland. Persons working independently contribute on a voluntary basis and enjoy similar benefits.

USP. Since the proposed Convention is intended to protect workers' safety and health, this Article should be deleted. It is already covered by existing Conventions on the introduction of social insurance, such as the Workmen's Compensation (Accidents) Convention, 1925 (No. 17), and the Employment Injury Benefits Convention, 1964 (No. 121). Paragraph 3 in particular should be deleted, since the instrument concerns protection of workers, and self-employed farmers should not be covered.

United States. USCIB. It is inappropriate to include in any ILO instrument the requirement of compulsory insurance for employers and self-employed farmers. There is no comparable requirement in any other industry-specific ILO Convention. This matter should be left to national and local governments to determine in accordance with prevailing conditions and circumstances. To mandate compulsory insurance for all agricultural workers is far too broad a provision and should, at most, be addressed in a Recommendation. Inclusion of this requirement in the proposed Convention would constitute a major obstacle to ratification.

Office commentary

Reference to compulsory insurance has been deleted from paragraph 1 to provide for flexibility, in line with the majority of the comments on this Article. Such an insurance scheme should be designed according to national laws, conditions and practice.

The reference to self-employed farmers in paragraph 3 has been modified and transferred to the Recommendation (see the Office commentary in the General observations on self-employed farmers).

The Article as amended appears as Article 20 of the proposed Convention.

Observations on the proposed Recommendation concerning safety and health in agriculture[5]

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 89th Session on June 2001, and

Having decided upon the adoption of certain proposals with regard to safety and health in agriculture, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Safety and Health in Agriculture Convention, 2001 (hereinafter referred to as "the Convention");

adopts this day of June of the year two thousand and one the following Recommendation, which may be cited as the Safety and Health in Agriculture Recommendation, 2001:

Observations on the Preamble

Lebanon. In the fourth paragraph, replace the expression "... the form of a Recommendation supplementing the Safety and Health in Agriculture Convention, 2001 ..." with the following: "... the forms of a Recommendation whose provisions constitute guidelines for national policies in the field of safety and health in agriculture, 2001". A Recommendation is basically a set of guidelines for implementing a Convention or updating national legislation, not a supplement to a Convention. There should be a reference here to the independent ILO Recommendations that do not refer to the expression "... supplementing the Convention ...".

Office commentary

The Preamble without amendments appears as the Preamble of the proposed Recommendation.

I. General provisions

1. In order to give effect to Article 5 of the Convention, the measures concerning labour inspection in agriculture should be taken in the light of the principles embodied in the Labour Inspection (Agriculture) Convention and Recommendation, 1969.

[5] The observations are preceded by the relevant texts as given in the proposed Recommendation set out in Report IV (1).

Observations on Paragraph 1

Lebanon. While harmony between Conventions and Recommendations is important, there should not be a decisive link between Conventions and Recommendations such as to make it difficult to ratify new Conventions, as has occurred with previous instruments. Paragraph 1 should be rewritten as follows: "In order to give effect to Article 5 of the Convention, the measures concerning labour inspection in agriculture should be guided by the principles embodied in the Labour Inspection (Agriculture) Convention and Recommendation, 1969".

Office commentary

The Paragraph without amendments appears as Paragraph 1 of the proposed Recommendation.

2. Multinational enterprises should provide adequate safety and health protection for their workers in agriculture in all their establishments, without discrimination and regardless of the place or country in which they are situated, in accordance with national law and practice and the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

Observations on Paragraph 2

Barbados. BEC. Paragraph 2 should be deleted. Employers feel that a reference to the ILO Tripartite Declaration has no place in a Recommendation.

Estonia. Owing to the importance of Paragraph 2, it should be transferred to the Convention.

Niger. SYNTAC. The provisions of this Paragraph should apply both to national and multinational agro-industrial enterprises.

South Africa. BSA. The stipulation that multinational enterprises are required to comply with national law and practice implies that other enterprises do not have to comply. This is quite clearly nonsensical. Furthermore, it is totally inappropriate to include a reference to the voluntary Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy in a Recommendation. Paragraph 2 should therefore be deleted in its entirety.

Switzerland. UPS. This Paragraph should be deleted. The reference to multinational enterprises is superfluous, since all enterprises must respect the legislation of the country in which they operate. Moreover, the reference to the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy is also out of place, given the voluntary nature of the provisions contained in it.

United States. USCIB. Paragraph 2 should be deleted. All enterprises, whether multinational or national, have to respect national law and the provisions of the proposed Convention if it is ratified by the country in which they operate.

Office commentary

Employers' organizations rejected the reference to the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy in the text of the

Recommendation. In view of the apparent general support for this text, the Office has left it for the Conference to consider this question if it so wishes.

The Paragraph without amendments appears as Paragraph 2 of the proposed Recommendation.

II. Occupational safety and health surveillance

3. The competent authority designated to implement the national policy referred to in Article 4 of the Convention should, after consulting the representative organizations of employers and workers concerned, taking into consideration the views of the representative organizations of self-employed farmers concerned, as appropriate:

(a) identify major problems, establish priorities for action, develop effective methods for dealing with them and periodically evaluate the results;

(b) prescribe measures for the prevention and control of occupational hazards in agriculture:

(i) taking into consideration technological progress and knowledge in the field of safety and health, as well as relevant standards, guidelines and codes of practice adopted by recognized national or international organizations;

(ii) taking into account the need to protect the general environment from the impact of agricultural activities;

(iii) specifying the steps to be taken in order to prevent or control the risk of endemic diseases for workers in agriculture; and

(iv) specifying that no hazardous work in an isolated area should be carried out by a single worker or without an adequate possibility of communication;

(c) prepare guidelines for employers and workers and self-employed farmers.

Observations on Paragraph 3

Barbados. BEC. The text of clause (b)(iii) is discriminatory and should be deleted, since it does not apply to employers in other sectors and should refer solely to work-related injuries and diseases.

Finland. The entire clause (b)(ii) should be deleted. It is not expedient to include general rules and regulations on environmental protection in an instrument concerning occupational safety and health in agriculture. Clause (c) should be worded more precisely as to its intention.

SAK. Agrees with the text of clause (b)(ii).

Indonesia. APINDO. The reference to endemic diseases in clause (b)(iii) should be deleted since it is discriminatory: it does not apply to employers in other sectors and the provision should refer solely to work-related injuries and diseases.

Lebanon. As no person should work alone in an isolated area, clause (b)(iv) should be redrafted as follows: "specifying that workers should not carry out hazardous work in an isolated area without an adequate possibility of communication".

Lesotho. ALE. The provisions of clause (b)(iv) are problematic, since "hazardous work" is not defined, and should be deleted, or alternatively a further qualification should be added such as "where feasible or practicable".

Mauritius. In clause (b)(ii), the wording "and, in particular, where appropriate, surface and ground water" should be inserted after the word "environment".

Norway. NHO. An ILO instrument should refer to work-related injuries and diseases. Consequently, it may be questioned whether a reference to "endemic" diseases belongs in such an instrument [see clause (b)(iii)]. This provision also appears to impose restrictions on agriculture that are not imposed in other sectors.

South Africa. BSA. In clause (b)(ii), the reference to the "general environment" is unrealistic and impractical. The focus should be on the "work environment", and BSA accordingly proposes an amendment to this effect. Clause (b)(iii) is totally inappropriate in an international labour instrument, and in any case it is also questionable whether many governments would be in a position to comply. BSA urges that this clause be deleted. Clause (b)(iv) is simply unrealistic, and indeed compliance could well restrict food production in some areas. BSA would urge all parties, particularly governments, to apply their minds to this issue.

Spain. Add at the beginning of Paragraph 3 the words "In the light of national legislation and practice,". The text would then be acceptable. However, clause (b)(ii) should ideally be deleted, and clause (b)(iv) is too restrictive; the text should provide simply that the worker who carries out hazardous work in an isolated area should have access to adequate means of communication. Clause (c) is superfluous and should be deleted.

Switzerland. UPS. Delete clause (b)(iii).

USP. The risk of endemic diseases does not relate specifically to agriculture, but to a country's general health care system. Clause (b)(iii) should be deleted.

United States. USCIB. The prescription of measures to prevent or control the risk of endemic diseases for workers in agriculture, as contained in clause (b)(iii), should be deleted. The inclusion of this measure is discriminatory because it does not apply to employers in other sectors. It also goes beyond the appropriate scope of an ILO instrument, which should refer solely to work-related injuries and diseases.

Office commentary

The reference to self-employed farmers in Paragraph 3 has been deleted and transferred to the section concerning self-employed farmers (new Paragraphs 12-15) (see the Office commentary on self-employed farmers in the General observations).

In response to the observations of the Governments of *Finland* and *South Africa*, the reference to the environment is within the ILO's mandate in so far as it concerns those work-related activities that can have an impact on the general environment. Similar references are found in the Prevention of Major Industrial Accidents Convention, 1993 (No. 174), and the Chemicals Convention, 1990 (No. 170). This approach is also consistent with the International Programme on Chemical Safety (IPCS) and the Inter-Organization Programme for the Sound Management of Chemicals (IOMC).

In response to the concerns of some employers' organizations and some governments, clause (b)(iii) was introduced because in many developing countries endemic diseases, such as malaria, are part of the morbidity patterns of agricultural workers. Their prevention would have an impact both on workers' productivity and their overall health status. Reference to the competent authority and to a consultation process, and the introduction of the words "where appropriate", provide for flexibility in the

identification of the problems and the preventive measures to be carried out by the competent authority when applicable.

Minor drafting changes have been made to subclause (iv) in line with the comments of the Government of *Lebanon*, with the intention of clarifying that this provision concerns mainly remote areas and confined spaces which are major sources of accidents when a worker is alone and without an adequate possibility of communication and assistance.

Paragraph 3 as amended appears as Paragraph 3(1) of the proposed Recommendation.

4. (1) The competent authority should establish a national system for occupational safety and health surveillance which should include both workers' health surveillance and the surveillance of the working environment.

(2) This system should include the necessary risk assessment and, where appropriate, preventive and control measures with respect to inter alia:

(a) hazardous chemicals;

(b) toxic, infectious or allergenic biological agents;

(c) irritant or toxic vapours;

(d) hazardous dusts;

(e) carcinogenic substances or agents;

(f) noise and vibration;

(g) extreme temperatures;

(h) solar ultraviolet radiations;

(i) transmissible animal diseases;

(j) contact with wild or poisonous animals;

(k) the use of machinery and equipment, including personal protective equipment;

(l) the manual handling or transport of loads;

(m) intense or sustained physical and mental efforts and inadequate working postures; and

(n) risks from new technologies.

(3) Special health surveillance measures for young workers and pregnant and nursing women should be taken, where appropriate.

Observations on Paragraph 4

Belgium. The expression "solar ultraviolet radiations" could be replaced with "solar and ultraviolet radiations".

Brazil. In subparagraph 1, include the wording "and a statistics database", as follows: "The competent authority shall establish a national surveillance system and a statistics database on occupational safety and health which should include ...". In subparagraph 3, add a reference to elderly workers, as follows: "Special health surveillance measures for young workers, pregnant and nursing women and elderly workers should be taken ...", to reflect the increase in the number of elderly workers in agriculture and their specific health care needs.

Cyprus. In subparagraph 3, amend the text as follows: "... for young workers, pregnant and nursing women as well as women who have recently given birth should be taken ...".

Denmark. The intention of Paragraph 4 is vague. If the intention is the establishment of national statistics on reported industrial accidents for the areas mentioned in subparagraph 2, with a view to taking action in relation to special problems or to prioritizing working environment measures, then this Paragraph is relevant. On the other hand, it is not expedient or desirable to introduce actual health examinations of individual employees, unless there are special reasons for doing so (i.e. the work is connected with risks to the health of employees). If the aim of Paragraph 4 is general health examination of employees in agriculture, then the Government considers that it should be omitted. Alternatively, the Paragraph may be rephrased to make it clear that this is not the intention.

Estonia. Add "genetically modified organisms" to the list in subparagraph 2.

Kuwait. Some minor additions concerning workers in the animal health sector are proposed, as follows: (i) exposure to casual illnesses caused by pathogenic bacteria and viruses in laboratories; (ii) exposure to biological waste and laboratory waste; (iii) exposure of abattoir workers to infected slaughtered animals that cause common diseases.

Lebanon. Because of clauses (d), (e) and (f) in subparagraph 2, the Preamble should include a reference to the Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148). In subparagraph 1, the expression "or hauling loads" should be inserted after the word "transport".

Mauritius. In clause (a) of subparagraph 2, the words "and hazardous wastes" should be added after the word "chemicals".

Spain. Subparagraph 2, clause (b), should be modified as follows: "biological agents liable to cause any type of infection, allergy or toxic effects". Modify clause (j) to read "contact with dangerous domestic, wild or poisonous animals". Delete the reference to "mental efforts" in clause (m).

Office commentary

In line with the observations of the Governments of *Kuwait* and *Mauritius*, minor drafting changes were made to clauses (a) and (b) in Paragraph 4(2) for the sake of consistency with Articles 12 and 13 of the proposed Convention (concerning management of chemicals) and Article 15 (animal handling). These provisions should be seen in relation to the new Article 15 of the Convention and the new Paragraph 8 of the Recommendation.

In response to the question raised by the Government of *Lebanon*, for the purpose of the instrument, hauling loads is implied by the term "handling". The inclusion of a reference to Convention No. 148 in the Preamble has been left for discussion at the Conference.

With regard to the proposal of the Government of *Cyprus*, these concerns are already reflected in the amendments made to Article 18 of the proposed Convention and the new Paragraph 11 of the proposed Recommendation (concerning women workers before and after childbirth).

In response to the comments of the Government of *Denmark*, occupational safety and health surveillance includes both workers' health surveillance and surveillance of the working environment. The main purpose of such measures is the implementation of occupational health programmes of prevention and control of work-related health

impairments and injuries. Health assessment procedures may include, but are not limited to, medical examinations, biological monitoring, radiological examinations, questionnaires and review of health records. The surveillance of the working environment concerns the identification and evaluation of environmental factors which may affect workers' health, and the design of control systems to prevent, eliminate or reduce such factors, taking into account working conditions, work organization and psycho-social factors. This approach is consistent with the Occupational Health Services Convention, 1985 (No. 161), the ILO Guidelines on Occupational Health Surveillance, the mandate of the Joint ILO/WHO Committee on Occupational Health and the ILO's policy on occupational safety and health.

The comments of the Governments of *Brazil* and *Denmark* concerning statistics on accidents and diseases have been dealt with in Paragraph 5 (new Paragraph 3(2)).

A reference to elderly workers has been added to Paragraph 4(3) along the lines suggested by the Government of *Brazil*.

Paragraph 4(1) without amendments appears as Paragraph 4(1) of the proposed Recommendation. Paragraphs 4(2) and 4(3), as amended, appear as Paragraphs 4(2) and 4(3) of the proposed Recommendation.

5. The competent authority should:

(a) adopt provisions for the progressive extension of appropriate occupational health services for workers in agriculture;

(b) establish procedures for the recording and notification of occupational accidents and diseases in agriculture, in particular for the implementation of the national policy and the development of preventive programmes at the enterprise level; and

(c) progressively develop procedures for the recording and notification of occupational accidents and diseases concerning self-employed farmers.

Observations on Paragraph 5

Brazil. At the end of clause (c), replace "... concerning self-employed farmers" with "... concerning farmers and self-employed workers".

Denmark. Clause (a) should be transferred to the Convention as a new subparagraph (d) of Article 7, or as a new subparagraph (c) of Article 7 if our proposal regarding Article 7 of the proposed Convention is not accepted.

Finland. The words "and for self-employed farmers" should be added to clause (a). Extending occupational safety and health to self-employed persons engaged in agriculture should also be a goal.

Lesotho. ALE. The expression "occupational health services" should be defined and in particular it should be made clear that these services are to be provided by the Government.

Spain. This Paragraph is too restrictive: add the wording "in accordance with the national legislation and practice".

Office commentary

In response to the proposals of the Governments of *Brazil* and *Finland*, the reference to self-employed farmers has been deleted and transferred to the section concern-

ing self-employed farmers (new Paragraphs 12-15) (see the Office commentary on self-employed farmers in the General observations).

A reference to the compilation of statistics on accidents and diseases has been included in clause (b) in line with the observations of the Government of *Brazil* which had proposed to include a reference to them in Paragraph 4(1).

The Government of *Denmark* suggested transferring the reference to occupational health services to the Convention. The Office has not amended the provisions in line with this substantive proposal, and it is left for the Conference to consider it if it so wishes.

As regards the observation of the Lesotho employers (ALE), the term "occupational health services" is to be understood as defined in the Occupational Health Services Convention, 1985 (No. 161). The term means services essentially entrusted with preventive functions and responsible for advising the employer, the workers and their representatives in the undertaking on the requirements for establishing and maintaining a safe and healthy working environment, as well as the adaptation of work to the capabilities of workers in the light of their state of physical and mental health. Such services may be either a part of the enterprise or external services appointed as required.

This Paragraph has been renumbered as Paragraph 3(2) in order to group the responsibilities of the competent authority under a single heading.

Former Paragraph 5 as amended appears as Paragraph 3(2) of the proposed Recommendation.

III. Preventive and protective measures

Risk assessment and management

6. To give effect to Article 7 of the Convention, a set of measures on safety and health at the enterprise level should include:

(a) occupational safety and health services;

(b) risk assessment and management measures in the following order of priority:

(i) elimination of the risk;

(ii) control of the risk at the source;

(iii) minimization of the risk by such means as the design of safe work systems, the introduction of technical and organizational measures and safe practices, and training;

(iv) in so far as the risk remains, provision and use of personal protective equipment and clothing, at no cost to the worker;

(c) measures to deal with accidents and emergencies including first aid and access to appropriate transportation to medical facilities;

(d) procedures for the recording and notification of accidents and diseases;

(e) appropriate measures to protect persons present at an agricultural site, the population in the vicinity of it and the surrounding general environment, from risks which may arise from the agricultural activity concerned, such as those due to agrochemical waste, livestock waste, soil and water contamination, soil depletion and topographic changes; and

(f) measures to ensure that the technology used is adapted to climate, work organization and working practices.

Observations on Paragraph 6

Belgium. CNT. This provision should make clear that collective protection has priority over personal protection.

Egypt. Add, at the end of clause (e), the following text: "... and water flowing through more than one country; and".

Germany. The aim of clause (b) – to establish an order of priority for protective measures – is fully supported. The text should, however, be formulated more clearly, as follows: sub-clause (i) – "maximum possible avoidance of risk to safety and health" (a risk cannot be entirely eliminated); sub-clause (ii) – "risks should be combated at the source"; insert before sub-clause (iv) "personal protective measures should be considered of lower priority than the preceding measures".

Lebanon. In clause (b), the priorities should be ranked in the following order: (iii); (ii); (iv); (i).

Lesotho. ALE. The provisions of clauses (e) and (f) impose on farmers onerous obligations which other employers do not have with regard to the population in the vicinity of a site, surrounding environment, etc. How, for example, can a farmer be expected to adapt technology?

South Africa. BSA. It is highly doubtful that agricultural undertakings, especially small undertakings and those in the poorer developing countries, will be in a position to comply with the provisions of this Paragraph.

Spain. In clause (a), the expression "occupational safety and health services" should be replaced with "preventive services"; in clause (c), the expression "access to appropriate transportation" should be clarified; in clause (e), the text goes beyond agricultural workers by referring to the "population in the vicinity of" an agricultural site. The reference to "soil depletion and topographic changes" should be deleted.

Office commentary

In response to the proposals of the Governments of *Belgium*, *Germany* and *Lebanon*, the basic principles of risk control are listed in the new Paragraph 5 (formerly Paragraph 6) of the proposed Recommendation: (i) elimination of the risk – by choosing a safer alternative which provides a high degree of control and is a reliable measure (e.g. replacement of a hazardous chemical with an inherently less hazardous one); (ii) control of the risk at the source – by engineering control (e.g. guarding of machinery); (iii) and (iv) minimization of the risk by design of suitable systems, collective protective measures, and individual protective measures if no other means are possible. The hierarchy reflects the fact that the elimination or control of risks using engineering systems and collective measures is more reliable than depending solely on personal protective equipment, which should be the last line of protection.

Former Paragraph 6 without amendments appears as Paragraph 5 of the proposed Recommendation.

Machinery safety and ergonomics

7. To give effect to Article 9 of the Convention, measures should be taken to ensure that technology, machinery and equipment, including personal protective equipment, are adapted to the needs of importing countries.

Observations on Paragraph 7

Israel. The meaning and purpose of this Paragraph are not clear, especially the intention behind the words "are adapted to the needs of importing countries". Who would be responsible for the implementation of these provisions and the manner in which they should be carried out? The inclusion of Paragraph 7 in the proposed Recommendation should be reconsidered.

South Africa. BSA. Great care should be taken to ensure that an international labour instrument, when insisting on potentially costly adaptations, does not discriminate against smaller and poorer countries whose imports of vital machinery and equipment are necessarily limited.

Spain. Delete this Paragraph.

Ukraine. Add "topographic conditions where they are being used" after the words "are adapted to".

Office commentary

Minor drafting changes have been made to this Paragraph in order to clarify the meaning of the "needs of importing countries", in particular with regard to climatic, meteorological and topographic conditions and anthropometric characteristics. With regard to the comments of the Government of *Israel*, such measures are to be taken by national authorities in relation to the responsibilities of manufacturers, importers and suppliers cited in Article 9 of the proposed Convention.

Paragraph 7 as amended appears as Paragraph 6 of the proposed Recommendation.

8. The competent authority should ensure that ergonomic principles are taken into account in the design and manufacture of machinery, equipment and tools.

Observations on Paragraph 8

Japan. This Paragraph should be deleted. It is inappropriate to include this provision in an international labour instrument and to make it a requirement for the competent authority. Ergonomic principles are already taken into account in the manufacture of machinery, within the scope of marketing efforts by manufacturers.

United States. USCIB. The principle that "ergonomic considerations are taken into account in the design and manufacture of machinery, equipment and tools" is unworkable. This proposal is not based on any scientific research, as there have been no ergonomics studies related to agricultural equipment. It also begs the question: How is a farmer supposed to comply with such a provision? Farmers make decisions on what agricultural equipment to purchase on the basis of cost and efficiency, not comfort. Compliance with such a provision would create an extreme burden on governments

and would also greatly increase the costs of farm machinery and tools to the farmer, as suppliers simply pass these costs on to the purchaser. This provision exceeds the scope of the intended and stated purpose of the proposed instrument.

Office commentary

Paragraph 8 has been deleted as its provisions are already included in Article 9 of the Convention.

Sound management of chemicals

9. (1) The measures prescribed concerning the sound management of chemicals in agriculture should be taken in the light of the principles of the Chemicals Convention and Recommendation, 1990, and other relevant international technical standards.

(2) In particular, preventive and protective measures to be taken at the enterprise level should include:

(a) adequate washing facilities for those using chemicals and for the maintenance and cleaning of personal protective and application equipment, at no cost to the worker;

(b) spraying and post-spraying precautions in areas treated with chemicals including measures to prevent pollution of drinking, washing and irrigation water sources;

(c) handling or disposal of hazardous chemicals which are no longer required, and containers which have been emptied but which may contain residues of hazardous chemicals, in a manner which eliminates or minimizes the risk to safety and health and to the environment, in accordance with national law and practice; and

(d) keeping a register of the application of agricultural pesticides.

Observations on Paragraph 9

Belgium. The wording "keeping a register of the application of agricultural pesticides" could be replaced with "keeping a register of the application of pesticides" with a view to extending the obligation to cover all pesticides used.

Benin. In clause 2(b), insert a reference to the prevention of food contamination by adding the word "food" after the words "pollution of". Include also a new clause (e) as follows: "supplying enterprise safety and health services with equipment or medical kits to provide first aid in the event of chemical contamination or intoxication".

Finland. In clause 2(a), before the reference to washing facilities, add some words to the effect that protective clothing, safety gloves and personal protective equipment should be provided for workers using chemicals at work.

Israel. The requirement to keep a register of the application of all agricultural pesticides poses difficulties. In Israel, a register of all *approved* pesticides is kept and it is suggested that the Paragraph should be amended accordingly.

Lebanon. For subparagraph 1, the following rephrasing is proposed: "The measures prescribed concerning the sound management of chemicals in agriculture should be guided by the principles of the Chemicals Convention and Recommendation, 1990". This would avoid any intrinsic link between the two Conventions that might

hinder the application of their provisions. For clause 2(a), a new wording is suggested, as follows: "adequate washing facilities for men and women using chemicals ...".

Lesotho. ALE. The requirements of clause 2(d) will be too onerous on farmers.

Spain. Subparagraph 1 is superfluous and should be deleted. Subparagraph 2 should become a single Paragraph 9 as follows: "To give effect to Article 12 of the Convention, safety and health measures shall be taken at the enterprise level, in accordance with national legislation and practice, and should include: ...".

Switzerland. UPS. Clauses 2(b) and 2(c) should be deleted.

USP. Clauses 2(b) and 2(c) should be deleted, as they do not directly concern safety and health, but relate to environmental protection.

Office commentary

Clause (d) of Paragraph 9(2) has been amended to take account of the comments of the Government of *Belgium*.

Clause (b) of Paragraph 9(2) has been amended in line with the comments of the Government of *Benin*. References to first-aid and health services are already found in the new Paragraph 5 of the proposed Recommendation.

Former Paragraph 9 as amended appears as Paragraph 7 of the proposed Recommendation.

Agricultural facilities

10. To give effect to Article 14 of the Convention, the safety and health requirements concerning agricultural facilities should specify technical standards for buildings, installations, rails, fences and confined spaces.

Observations on Paragraph 10

Japan. It is not necessary to specify objects or sites such as "buildings, installations, rails, fences and confined spaces". The provisions of Article 14 of the proposed Convention are sufficient in this regard.

Lesotho. ALE. Specifying technical standards for buildings will not work for developing countries. It may be the case that the type of buildings and installations should be specified. The reference to confined spaces is perhaps relevant in this regard.

South Africa. BSA. See comments on Article 14 of the proposed Convention.

Office commentary

Minor drafting changes have been made to the heading and the text of this Paragraph for the sake of consistency with the former Article 14 (new Article 15) of the proposed Convention.

Paragraph 10 as amended appears as Paragraph 9 of the proposed Recommendation.

Animal handling

11. To give effect to Article 15 of the Convention, measures for the handling of animals should include:

(a) control and testing of livestock, in accordance with veterinary standards and national law and practice, for all diseases transmissible to humans;

(b) immunization, as appropriate, of workers handling animals;

(c) provision of appropriate protective equipment, water supply facilities, disinfectants, first aid and antidotes in case of contact with poisonous animals and insects; and

(d) safety precautions in the handling and disposal of carcasses of infected animals, including the cleaning and disinfection of contaminated premises.

Observations on Paragraph 11

Belgium. The expression "control and testing of livestock" should be replaced with "control and testing of animals", in order to cover all species present in agricultural enterprises and capable of transmitting diseases to humans.

Finland. Clause (a) should read as follows: "control and surveillance of livestock, in accordance with veterinary standards and national law and practice, for diseases transmissible to humans". The proposal to test animals for *all* diseases transmissible to humans is impossible to implement in practice. An addition should be made to clause (c) to the effect that workers should have filtering devices when they are exposed to organic dust in cattle handling spaces (to provide protection against fungal spores, animals' epithelial material, meal and grain dust and allergenic material). Special attention should be focused on those who have allergic symptoms when exposed to agricultural organic dust.

Spain. Clauses (a) and (b) are beyond the scope of labour standards. A reference to national legislation and practice would be sufficient In clause (b), the term "vaccination" would be preferable to "immunization".

Office commentary

Some amendments have been introduced to the heading and the text of this Paragraph in line with the comments of the Government of *Germany* and for the sake of consistency with the changes to Article 15 (new Article 14) of the proposed Convention on the same subject. This new wording should be seen in connection with Paragraph 4 concerning occupational safety and health surveillance (see in particular clauses (2)(b) and (2)(i)) and with new Paragraph 5 concerning risk assessment and management.

Former Paragraph 11 as amended appears as Paragraph 8 of the proposed Recommendation.

A new Paragraph 11 has been drafted concerning the specific physical conditions of workers who are pregnant, who have recently given birth or are breastfeeding. Such measures are described in the Maternity Protection Recommendation, 2000 (No. 191), in the section on Health protection (Paragraph 6). See also Article 3 of the Maternity Protection Convention, 2000 (No. 183).

IV. Other provisions

Self-employed farmers

12. National policy should also provide for safety and health promotion in agriculture, through action programmes and educational tools, with a view to addressing especially the specific needs of self-employed farmers, seasonal workers and young workers.

Observations on Paragraph 12

Brazil. At the end of the Paragraph, replace "... the specific needs of self-employed farmers, seasonal workers and young workers" with the following: "... the specific needs of self-employed farmers, permanent workers, workers engaged in seasonal activities, young and elderly workers".

France. This Paragraph is not specific to self-employed farmers. As it concerns all agricultural workers, it should be moved.

Lebanon. It is proposed to add the expression "seasonal and young workers" in the title of this Part of the proposed Recommendation.

Niger. SYNTAC. These provisions are very important for African countries where most producers are independent farmers engaged in subsistence farming. Gradual implementation and enforcement and appropriate prior training are needed.

Switzerland. The concept of the self-employed worker is unknown in Swiss law, but our agricultural accident prevention service is trying to extend its activities to cover farmers who are not employers, as well as family members who are not employed.

Office commentary

Paragraph 12 has been revised to incorporate provisions from Articles 3 and 4 of the proposed Convention (see the Office commentary on self-employed farmers in the General observations).

Paragraph 12 as amended appears as Paragraphs 12(1), 12(2) and 12(3) of the proposed Recommendation.

13. (1) Measures should be taken by the competent authority to ensure that self-employed farmers enjoy safety and health protection that is equivalent to that provided to other workers in agriculture.

(2) These measures should include guidelines, appropriate advice and training to self-employed farmers covering inter alia:

(a) their safety and health and the safety and health of those working with them as regards work-related hazards, including the risk of musculo-skeletal disorders, the selection and use of chemicals and of biological agents, the design of safe work systems and the selection, use and maintenance of personal protective equipment, machinery, tools and appliances; and

(b) the prevention of children from engaging in hazardous activities.

(3) In giving effect to subparagraph 1, account should be taken of the special situation of self-employed farmers, such as:

(a) small tenants and sharecroppers;

(b) small owner-operators;

(c) persons participating in agricultural collective enterprises, such as members of farmers' cooperatives;

(d) members of the family of the owner-operator of the undertaking, according to national law and practice;

(e) other self-employed workers in agriculture, according to national law and practice.

Observations on Paragraph 13

Belgium. In subparagraph 2, replace "appropriate advice" with "appropriate counselling". In the French version of subparagraph 2(b), replace "engager" with a more precise term such as "confier" or "charger".

Brazil. The definition of "children" varies from one country to another. Replace "the prevention of children from engaging in hazardous activities" with "the prevention of minors under 18 years of age from engaging in hazardous and unhealthy activities, in accordance with Article 16 of the Convention".

Lebanon. In subparagraph 1, the word "progressive" should be inserted before the word "measures", and the expression "according to national circumstances" should be added after the word "measures".

South Africa. BSA. Subparagraph 1 raises the question of who will bear the costs.

Ukraine. In subparagraph 2(a), after the words "musculo-skeletal disorders", add "and disorders of the respiratory and tactile organs".

Office commentary

Paragraph 13(1) without amendments appears as Paragraph 13(1). Paragraph 13(2) has been revised to incorporate provisions from Articles 11 and 19 of the proposed Convention. Former Paragraph 13(3) without changes appears as a new Paragraph 15 of the proposed Recommendation (see the Office commentary on self-employed farmers in the General observations).

Welfare and accommodation facilities

14. (1) To give effect to Article 19 of the Convention, employers should provide, as appropriate and in accordance with national law and practice, to workers in agriculture:

(a) an adequate supply of safe drinking water;

(b) facilities for the storage and washing of protective clothing supplied at no cost to the worker;

(c) facilities for eating meals;

(d) separate sanitary and washing facilities for men and women workers, including for those working in the fields;

(e) adequate accommodation; and

(f) work-related transportation.

Observations on Paragraph 14

Argentina. It should be made clear and explicit that provisions concerning working conditions and welfare facilities should involve no cost to the worker.

Barbados. BEC. Paragraph 14 should be deleted because it is inconceivable for a small farmer to comply with such a requirement, and the cost to large farmers would be prohibitive.

Belgium. Introduce "at no cost" at the beginning of the Paragraph, in order to read: "... employers should provide free of charge, as appropriate and in accordance with national law and practice, to workers in agriculture: ...".

Benin. In clause (b), it is unnecessary to stipulate that facilities should be at no cost to workers, since this is already stated in Article 19 of the proposed Convention.

Brazil. The Government and CONTAG agree with the proposed text.

CNA. The number of workers and the size of the enterprise should be taken into consideration when providing for welfare facilities and accommodation.

Chile. An amendment in clause (b) to include the wording "at no cost to the workers" means that only facilities for the storage and washing of protective clothing are free, and the other facilities are not free of charge to workers. It is necessary to define clearly what is meant by "facilities for the storage and washing of protective clothing," as opposed to the other facilities, to prevent contravention of existing provisions protecting workers and promoting risk prevention in the workplace.

Denmark. The Government supports the inclusion of the wording "at no cost to the worker" in clauses (a), (b), (c), (d) and (f), but finds that it would in practice be very difficult to apply the provision to accommodation. It would be extremely difficult to prove that the individual employee does not pay for accommodation, as payment can be deducted indirectly in the form of lower wages. Furthermore, accommodation will often be subject to tax.

Eritrea. With regard to "facilities for the storage and washing of protective clothing supplied at no cost to the worker", what about the other facilities which are included under "welfare and accommodation facilities"? Workers should not be required to pay for them, since they are not within their means. Instead, the competent authority or the employer should meet the costs involved. Furthermore, the expression "welfare facilities" should be replaced with a more precise term. The facilities should also include medical check-ups (at regular intervals) and treatment.

Ethiopia. The words "at no cost to the worker" in clause (b), imply that only protective clothing is free and the other welfare facilities may involve costs to the worker. To ensure that this idea is not conveyed, the original wording, before that amendment was made, should be adopted.

Finland. The words "at no cost to the worker" should be omitted from clause (b). The benefits at no cost listed in the Paragraph are already shown sufficiently clearly in Article 19 of the proposed Convention.

FAE, TT. In clause (b), the term "protective clothing" can include working clothes that the worker can also wear outside working hours, and in that case the requirement for the washing and storing of such clothes at no cost to the worker is not justified. For this reason, the words "at no cost to the worker" should be omitted. Clause (d) should

be omitted in its entirety, since the requirement concerning separate sanitary and washing facilities for men and women working outdoors is impracticable.

France. As it is stated in Article 19 of the proposed Convention, welfare facilities should be provided at no cost to workers, but the option of free accommodation should be left to member States. Consequently, Paragraph 14 could be modified to specify that the facilities specified in all the clauses are free of charge to workers, with the exception of those referred to in clause (e). The provision of separate sanitary and washing facilities for men and women working in the fields is disadvantageous to enterprises employing relatively few workers. National regulations should determine a minimum number of workers for its application.

Indonesia. APINDO. Paragraph 14 should be deleted because it is inconceivable for a small farmer to comply with such a requirement, and the cost to large farmers would be prohibitive.

Israel. We are of the opinion that the employer should select and provide the necessary personal protective equipment at no cost to the worker and should also be responsible for enforcing the proper use of it. The worker should be obliged to use the personal protective equipment whenever necessary, to keep it in proper working order and to notify the employer if it is damaged or defective. In clause (a), the words "at no cost to the worker" should be added.

Japan. The cost to the worker should be determined according to the situation in each country, particularly in relation to the welfare enjoyed by workers in other sectors. The proposed provisions are considered sufficient.

Lebanon. Clause (b) should be worded as follows: "separate facilities for women and men for the storage ...".

Lesotho. ALE. Delete the phrase "including for those working in the fields" in clause (d). This would be impracticable, particularly in developing countries.

Mauritius. MEF. Clauses (c) and (d) will give rise to many practical problems in their implementation.

Norway. NHO. The provision contained in clause (d) will be impracticable within an agricultural sector comprising small units. The provision should therefore be deleted.

South Africa. BSA. To ensure that the provisions in this Paragraph have a realistic chance of implementation, it is vital that the size of farms and their relative remoteness are taken into consideration. In clause (c), a clarification is required on the definition of "facilities" before any meaningful comment can be given on the feasibility of the provisions. In clause (d), an expectation that sanitary and washing facilities have to be provided in the field suggests a lack of understanding of the reality of large farms in certain areas. In clause (e), it is unacceptable to include a provision that employers might be expected to provide housing. In clause (f), in the event of travel to and from the workers' place of residence being considered as part of work-related transport, an amendment will be required. BSA does not believe that the employer can be expected to provide such transport.

Tunisia. In the French version, to avoid any possible misinterpretation concerning free welfare and accommodation facilities provided by employers, insert the word

"gratuitement" ("free of charge") after "mettre" at the beginning of the paragraph, and delete the words "à titre gratuit" at the end of clause (b).

United Kingdom. The International Labour Office is requested to suggest an alternative form of wording.

United States. USCIB. The provision regarding separate toilets and hand-washing facilities for men and women in the field, in clause (d), is unacceptable. It is inconceivable how a small farmer could hope to comply with such a requirement and the cost for large farms would be prohibitive.

Office commentary

This Paragraph has been transferred to Part III *(Preventive and protective measures)* for a more systematic presentation. Minor drafting changes have been introduced for the sake of consistency with Article 19 of the proposed Convention. The phrase "at no cost to the worker" in clause (b) and the reference to accommodation in clause (e) have been deleted because they are already found in Article 19. Taking into account the comments received from some governments and employers' organizations, clause (d) has been modified to provide for flexibility. In line with the modifications introduced to the definition and the Office commentaries on Articles 1, 3 and 4 of the proposed Convention, the supply of the services described in Paragraph 14 is in relation to the size of the undertaking, the number of workers, the nature of the activities and national law and practice.

Former Paragraph 14 as amended appears as Paragraph 10 of the proposed Recommendation.

Paragraph 3 of Article 20 of the proposed Convention has been modified and transferred to the proposed Recommendation as a new Paragraph 14 (see the Office commentary on self-employed farmers in the General observations).

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